

AFRICAN ELEPHANT CONSERVATION

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 2999, H.R. 4849, and Staff Draft

BILLS THAT RESTRICT IMPORTATION OF IVORY AND IVORY PRODUCTS
IN ORDER TO PROTECT AFRICAN ELEPHANT POPULATION

JUNE 22, 1988

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AFRICAN ELEPHANT CONSERVATION

WEDNESDAY, JUNE 22, 1988

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 1334, Longworth House Office Building, Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Present: Representatives Studds, Carper, Young, Schneider, Saxton, Clement, and Heger.

Staff present: Gina DeFerrari, William Stelle, Tom Melius, Lisa Murray, Joyce Sacco, Don Barry, Lori Williams, Sue Waldron, Kelly Faulkner, and Harry Burroughs.

STATEMENT OF HON. GERRY E. STUDDS, CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The Subcommittee will come to order.

We meet this morning to discuss what the United States can do to help make the world a little safer place for the elephants.

The population of African elephants has declined more than 30 percent over the past seven years from 1.2 million in 1981 to only 760,000 today.

In some regions in Africa the decline is even more severe. In Kenya, for example, some areas have lost between 90 to 95 percent of their elephants over a period of 15 years.

One of the biggest reasons for the perilous position of elephants experts tell us is poaching, the illegal killing of wild elephants.

An international system has been established to control the trade in elephant ivory, but it does not yet seem to be working as planned.

We are here today to discuss the steps the United States can take to stem illegal ivory trade and the poaching that is the source of its ivory.

There are three proposals before us today that seek to achieve that goal. Mr. Beilenson introduced legislation last year that would ban the importation of elephant ivory into this country.

Staff of the Subcommittee has drafted legislation that would ban the importation of ivory from African nations that do not have effective programs for the conservation of elephants. It would also ban the importation of ivory from nations that accept ivory from African nations without effective conservation programs.

It would tax ivory imports and use the proceeds to fund anti-poaching efforts and other elephant conservation measures in African countries.

Mr. Fields introduced legislation last week that would permit the importation from ivory only from countries that have elephant populations in the wild. This would effectively ban the importation from countries like Hong Kong or Japan which import ivory tusks from Africa, carve them, and export them to the United States.

Each of these proposals has advantages and disadvantages, and I am hopeful that our discussions today will help identify the most productive route we can take.

We are fortunate to have before us today a group of individuals who are extremely knowledgeable about the threats to the African elephant and about the ongoing efforts to conserve it.

We all share the common goal of ensuring that healthy populations of elephants in the wild do not become a thing of the past.

We look forward to hearing the witnesses that we have.

We will begin with two of our colleagues, both of whom have introduced legislation on the subject.

Are there opening statements?

Miss SCHNEIDER. Mr. Chairman?

Mr. STUDDS. The gentlelady from Rhode Island.

**STATEMENT OF HON. CLAUDINE SCHNEIDER, A U.S.
REPRESENTATIVE FROM RHODE ISLAND**

Miss SCHNEIDER. Your opening statement was most comprehensive, one of the only things that I might add is that the ivory trade is something that needs to be much more closely monitored.

CITES right now is, in essence, the only vehicle that we have for controlling the ivory trade, and, unfortunately, it has been relatively ineffective.

One of CITES greatest obstacles is simply the law of supply and demand, and as the elephant population goes down, the price of ivory rises, and we have seen that since the early 1970's. The price was \$3 a pound, and today it is over \$100 a pound.

So I am sure that the witnesses will elaborate to some degree as to the impact on the ivory trade.

I thank you, Mr. Chairman, for holding this very timely and critical hearing.

Mr. STUDDS. I thank the gentlelady.

We'll proceed to our two colleagues, each of whom has offered a bill, beginning with the gentleman from California, Tony Beilenson. Welcome.

**STATEMENT OF HON. ANTHONY C. BEILENSEN, A U.S.
REPRESENTATIVE FROM CALIFORNIA**

Mr. BEILENSEN. Thank you, Mr. Chairman and members of the subcommittee, Miss Schneider.

I want to start off by thanking you personally, on behalf of myself and the many others who have been working on this issue for the past year, for taking the time to address the plight of the world's largest—and perhaps most magnificent—land animal, the African elephant.

As some of you know, I have been involved with this issue for nearly 15 years. In 1976, I authored legislation passed by the California State legislature which banned the importation of ivory into that State.

In 1979, we passed a bill I introduced here in the House of Representatives which would have severely restricted ivory imports into the United States. Unfortunately, the Senate did not act on the bill, and I have been unsuccessful, until now, in getting the issue moving again.

I appear before you now—and on behalf, also, of our 101 co-sponsors of our bill—for the very same reason that I became involved in the beginning: unless we sharply reduce the demand for ivory and halt trade in illegally poached ivory, the African elephant, which has already disappeared completely from many parts of Africa, will become extinct.

In 1979, the last time Congress considered elephant protection legislation, experts were telling us that unless we took steps then to restrict the ivory trade the elephant population, which numbered about one and a half million, would soon be facing a drastic and irreversible decline.

Tragically, the experts were right. African elephants now number about 700,000. Some think the number is closer to between 300,000 and 400,000—less than one half as many as ten years ago, and are declining by ten percent every year.

Approximately 100,000 elephants were killed in 1986 to satisfy world-wide ivory demand, and at least 10,000 of those elephants were used to supply the ivory for jewelry and other trinkets purchased by American consumers world-wide. Some think the number perhaps was 20,000 to 30,000 elephants that were killed to use to supply the demand for American consumers.

Some people argue that the elephants belong to Africa, and that ultimately it will be up to the countries there to determine if the elephant will survive. However, it has become apparent that even the best-intentioned and uncorrupted African governments are limited in their ability to control poachers because, like the drug trade, there is enormous profit to be made from ivory.

For that reason I believe very strongly that the United States and other ivory-consuming nations can and must play a bigger role in restricting the ivory trade.

Like gold and silver, ivory is a commodity used to hedge against inflation. As the price of ivory rises, more elephants are slaughtered. As more elephants are killed, there is increased fear that the supply will run out and that, in turn, drives the price of ivory up even more.

The elephant has thus become a most unfortunate victim of a vicious upward spiral of supply and demand.

In 1960, ivory sold for about \$2.25 a pound. The going rate is now about \$68 a pound. With a single, large tusk worth more than \$5,000 retail on the world market, and the average per capita income at \$300, an African poacher can earn much more for himself and his family from one killed elephant than from one year of farming—an enormously powerful incentive to kill elephants that will not disappear until we can reduce the value of ivory by cutting demand.

The situation has gotten so bad in some countries that we are now seeing a sharp decline in the average weight of tusks being traded on the international market. An elephant's tusks grow continuously as it ages. And, in fact, the amount of ivory produced each year by an elephant increases with age.

Logically, then, if elephants were permitted to die naturally, profits from the ivory trade would be maximized. But the weight of elephant tusks being traded on the international market, which averaged 35 pounds 10 years ago, now average only 13 pounds. In fact, between 10 and 15 percent of the tusks now being exported from Africa weigh less than one pound—the tusk of an infant elephant, evidence that in many populations, entire generations of older elephants have been completely wiped out.

This trend is especially disturbing because, like humans, elephants do not reach sexual maturity until their early teens, and as adults they reproduce at a very slow rate. The gestation period for an elephant is 22 months. Female elephants normally give birth to only one calf at a time, and births are spaced about four years apart.

Elephants are born with only one-third of their adult brain weight, and spend their first 10 to 14 years learning how to survive from their mothers. Therefore, killing older elephants before their young ones are old enough to take care of themselves and to reproduce is a very dangerous trend which, unless reversed, will speed the animal's fall into extinction.

Mr. Chairman, most of you know that I have a particular affection for elephants. I don't necessarily expect you to share that affection, but I do wish to convey to you the urgency of this situation.

It is of utmost importance that we act now so that we can begin now to work toward a more effective way of controlling the ivory trade and protecting the elephant.

We can also send a strong message to ivory-producing countries—and to Asia and Western Europe—that we are serious about this issue and that we'll do whatever is necessary to ensure that poached ivory is not accepted here in the United States.

You will hear today from concerned individuals with varying opinions about what form this legislation should take. One thing I've learned in studying this issue is that, unhappily, there is no one simple or single answer to the problem.

But what you will not hear disagreement about is the need to act positively now. The elephant simply will not survive another decade if the current rate of killing continues.

As a major importer of carved ivory we, in the United States, can, and indeed must play a role in seeing that the demand for expensive ivory carvings, trinkets, and jewelry is not permitted to continue at such an uncontrolled rate, and at the expense of a truly unique and beautiful species.

While you will be hearing some differences of opinion today about what exactly is the best approach to the problem, I believe there is agreement that whatever we do the legislation should include the following:

One: a selective moratorium on imports from ivory-producing countries that cannot or will not provide sufficient protection for their elephants against illegal poachers and smugglers, but a mora-

torium that would allow imports from those countries that are able to show that their elephant populations are healthy and growing, and that they are effectively preventing poaching. The moratorium on producer countries included in the committee staff's draft proposal meets those criteria, and includes several effective provisions that will compel the Fish and Wildlife Service to render early and sound decisions on each of these countries.

Second: because of the enormous difficulty of identifying the origin of ivory once it has entered the world market and has been carved, there is general consensus that legislation would be fruitless unless we can be assured that ivory coming into the United States from intermediary countries—primarily Hong Kong—complies both with the CITES Ivory Quota Control System, and the moratorium enacted under the bill.

The staff draft requires that any intermediary country wishing to continue trade with the United States must agree to import ivory only from countries that meet U.S. criteria. Several groups, however, are not satisfied with that provision and would, instead, simply ban all ivory imports from intermediary countries.

Third: I believe that somehow we must begin to recognize the fact that most African countries simply do not have money to invest in elephant protection efforts. Wildlife is one of the few valuable resources Africa has, and protection of elephants, valuable for both the tourism industry and the carving industry, should be part of the United States overall effort to aid developing countries.

Funding of elephant and other wildlife protection projects would, in the short run, provide relief to threatened species, and in the long run it would maximize the profitability of Africa's resources.

Although I do not think that this issue can or should be addressed in the legislation we are considering today, it may, nonetheless, be an important component of any successful effort to save the elephant.

Finally, Mr. Chairman and members, let me say again that there is a great urgency about this business, for whatever action we in Congress take to try to save the elephant will not be the end of the effort, it will only be the first step.

We then have to persuade, with our example, other ivory-consuming nations—especially Japan where about 75 percent of the carved ivory is consumed—to follow suite as quickly as possible. But there is very little time. The elephant has very few years left.

So I beg you all to commit yourselves to getting this process started this year by passing the best possible legislation we can this year.

I thank you for giving us this opportunity to address you on the issue. I look forward to working with you to complete work on this legislation in the coming weeks.

Thank you, Mr. Chairman.

Mr. STUDDS. Thank you, Tony. Your affection for the critter is obvious and contagious.

Let the record reflect that no one has spoken to me more about this animal in the past 15 years than you. You speak with great conviction and great impact.

Mr. STUDDS. The gentleman from Texas, Mr. Fields, a member of this Committee and our colleague.

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE
FROM TEXAS

Mr. FIELDS. Thank you, Mr. Chairman. I have two statements to submit for the record, if I could. One is from Harry Tennison, the president of Game Conservation International, and the second is from David Murchison, who is the secretary of the African Safari Club of Washington, D.C.

Mr. STUDDS. These statements will appear in the record.

Mr. FIELDS. Mr. Chairman, first of all I would like to thank you for holding this hearing. But, like you, I also think that we need to acknowledge at the outset the dedication and the efforts of our distinguished colleague, Mr. Beilenson, from California. He has worked tirelessly on behalf of this species, and I think without his involvement we wouldn't be here today, and certainly this issue would not have attained the visibility that it has in this country.

During the past ten years the population of African elephants has declined by almost half. In 1979 the total elephant population in Africa was approximately 1.3 million animals. Today, fewer than 750,000 African elephants are alive, and, of course, that figure varies from witness to witness.

The destruction of this magnificent animal has not been confined to just a few African nations. For instance, the African Wildlife Foundation points out that in 1973 some 130,000 elephants lived in the Republic of Kenya. In 1987 it was estimated that fewer than 20,000 remain. That is a population loss of 85 percent.

In 1977 the Selous Game Reserve in the United Republic of Tanzania had a population of 109,000 elephants. Today, only half of them, or 55,000, are alive.

In 1976 some 80,000 to 100,000 elephants roamed the plains of the Central African Republic. By 1985, fewer than 15,000 remained.

During the turbulent period of Idi Amin's rule in the 1970's, 80 to 90 percent of Uganda's elephants were slaughtered. A single herd in the Murchison Falls National Park was reduced from more than 9,000 elephants in 1973 to only 25 survivors in 1982.

And, finally, before its civil war, Chad had an estimated 15,000 elephants. Today, fewer than 2,000 elephants live in that nation.

I think we all have to ask ourselves why these elephants have been killed in such staggering numbers. I think there is going to be a fairly conclusive statement today that the primary reason is the world's growing appetite for elephant ivory, which has increased in price by more than seven-fold during the last decade.

Since 1980, the annual volume of world ivory has been about 800 tons. To meet that demand, some 70,000 elephants must die each year. Yet, only three percent of ivory imported into the United States comes directly from Africa. The bulk of it arrives from such intermediary places as Hong Kong, China, and Japan.

We, in the United States, consume 30 percent of the world's ivory production each year. Since many experts believe that nearly 80 percent of all imported ivory is poached, purchases in the United States account for the deaths of some 27,000 African elephants each year.

With the population of the African elephant declining by nearly nine percent a year, it is clear that unless we take some legislative

action and provide some world leadership, we will witness the annihilation of the African elephant within the next decade.

Another question may be: why does a Congressman from Houston, Texas, care about the African elephant? Well, I have been a sportsman and a hunter all my life, and I learned early on to have a great appreciation and love for all of God's creatures. I want to see all species preserved, not because I want to hunt a certain animal, but because I want others to be able to experience the joy of seeing the animals in their natural habitat.

Mr. Chairman, the terms "hunter," "sportsman," and "conservationist," to me are not mutually exclusive. In fact, the hunting community has spent millions of dollars trying to save not only the African elephant, but also the black rhino, leopard, and many other species. I'll just add as a quick aside: I hope that this subcommittee will very quickly look at the status of the black rhino in Africa.

I am confident that hunters, who are your best conservationists, will do whatever they can to help save the African elephant.

As a prelude to my comments on the legislation pending before your subcommittee, I think it is important to note that there are three types of ivory.

First, there is sports-hunted ivory. It accounts for a minuscule percentage of ivory exports from producing countries. This activity has been found to be biologically sound and produces, by far, the greatest economic return per animal for the producing nation.

In order to legally hunt an elephant, an individual must pay substantial permit and safari fees to the producing nation. Those fees far exceed the commercial value of the ivory, itself. And because of this vital infusion of capital, there is a tremendous incentive for elephant protection efforts. Several African countries, most notably Zimbabwe, Botswana, and South Africa, have established outstanding—and I want to underscore outstanding—elephant conservation programs.

Since there is no relationship between the movement of sport-hunted ivory and illegally obtained ivory, it would be counter-productive to our conservation efforts to ban that type of activity.

The second type of ivory, called legal commercial ivory, is obtained from culling operations, or from confiscation, or from ivory that is found from elephants who have died naturally.

The third type is illegal commercial ivory, or poached ivory. In almost every case, that activity is biologically unsound in that it leads to the destruction of the elephant population. It contributes nothing to the economies of the producing nations, and, therefore, provides little, if any, incentive to conserve elephants or elephant habitats. Our efforts must be directed at stopping that poaching, or at least eliminating the financial incentives which lead poachers to kill elephants.

We must remember that poachers are motivated by ivory prices which are greater than a year's wages for most African workers.

Now, if I could, I want to briefly comment on the legislation proposals which are the subject of the hearing.

The first is H.R. 2999, which was introduced by my friend and Colleague, Tony Beilenson. While the hunting and conservation community has not supported this bill, it has served an extremely

useful purpose by focusing attention on the serious problems facing the African elephant. Without the bill and Tony's leadership—and I'll reiterate what I said earlier: we would not be here today, and we would not be on the verge of developing a consensus bill, and I think the credit definitely should flow in his direction.

But despite its good intentions, a total ban on all elephant products would be detrimental to elephant conservation.

Based on my experience, there is no question that if the African elephant, which is now a valuable economic commodity, no longer had a financial value, then African governments will simply stop spending their meager resources to protect them. As a result, the elephant will be slaughtered for their meat and for the illegal ivory trade outside of the United States.

The second bill under consideration is the staff draft. Mr. Chairman, it is no secret that I have had serious problems with the approach, and my problems include, number one: while I am not unalterably opposed to some type of revenue-generating mechanism to help African countries protect their elephants, the staff draft establishes a highly discriminatory excise tax which falls most heavily on raw ivory products and legitimate sports trophies.

Secondly: I have a problem because the proposal allows the Secretary of the Interior to decide, with little or no guidelines, which African countries will be affected by an elephant moratorium. In short, the Federal bureaucracy will decide in which countries sport hunting would be permitted in the future, and, to me, that is not acceptable.

Third: the proposal contains language which allows any group or individual to petition the Department of the Interior. Mr. Chairman, unfortunately, those who have an anti-hunting philosophy would use the language to petition the Department to stop legal sport hunting throughout Africa. While there is a need for some mechanism to encourage the Department to act against those countries which do not have effective elephant conservation programs, the Department shouldn't be forced to spend its limited resources answering hundreds of citizen petitions.

As an alternative, we should include specific language which spells out the criteria that a country must meet in order to legally export ivory to the United States.

Fourth: the draft would not help save the African elephant from extinction because it does not even begin to address the problem of poaching. What it attempts to do is change the attitude of those in Africa and eliminate legitimate sport hunting which now provides the incentive to protect those elephants.

In addition, it adopts a kind of "wait and see" attitude by shifting the focus and the solution to the problem to the Convention on International Trade in Endangered Species of Wild Fauna and Flora—CITES.

While I am a strong supporter of CITES, and while I regret that this fine organization does not receive greater financial assistance, I strongly believe that we must act now, that we must be the world leader.

If we wait for CITES and its ivory control system to become effective, the African elephant will cease to exist in a viable sense in most African nations.

Finally, I would suggest that the subcommittee look at H.R. 4849, the African Elephant Anti-Poaching Act. That's the bill which I introduced last week. It proposes a simple, straightforward ban on all worked and raw ivory from any country which does not have a native population of African elephants living in the wild, and which is not a member of CITES.

Mr. Chairman, we must eliminate the significant financial rewards which poachers now obtain from killing an elephant if we are to have any hope of saving the species from decimation. While I recognize that we cannot unilaterally stop the flow of poached ivory, we do have a responsibility to take the leadership role.

I agree that the solution to the problem cannot be confined simply to intermediary countries, but a ban on ivory imported from non-producing countries is the best place to start. From here we can work with CITES so that it can become more effective on an international scale.

In addition to eliminating tons of poached ivory which flood this country each year, it is my hope and my intent that the legislation will provide important new incentives for African elephant conservation programs.

For instance, within a few years, ivory carvers would be forced to move their operations to Africa. By so doing, they would help build the local economies of the African nations and provide a powerful incentive to manage the African elephant population in a sound manner, in essence creating more of an economic incentive to protect the elephants.

While it may not be a perfect bill, I hope that it will stimulate debate, and I am certainly amenable to working with any group in order to develop a proposal which is acceptable to hunters, wildlife conservationists, humane groups, and environmentalists.

Mr. Chairman, the road to extinction is a one-way street. I urge you to join with us in crafting a bill which will provide meaningful and effective protection for the African elephant.

Thank you very much.

Mr. STUDDS. Thank you, Jack. I thank both of you gentleman.

I'm going to invite you both, if you wish, to come and join us here for the panel of witnesses that will follow. Why don't you do that, and then you can participate in the questioning as well. We very much appreciate your contributions.

Are there any questions for the Members that have just testified?

Miss SCHNEIDER. Mr. Chairman?

Mr. STUDDS. Don't move yet. The gentlelady from Rhode Island.

Miss SCHNEIDER. I wanted to ask Mr. Fields if he would be able to tell us: if the United States were to completely stop the importation of ivory, what percentage of an impact would that have on the total global market? Are we one of the largest consumers?

Mr. FIELDS. Well, as I stated in my testimony, you have variants on what the actual figure, percentage-wise, of what we're importing, but it is in the range of 10 to 30 percent. But we have also received information in informal discussions—and I think I need to be sure to emphasize that those were informal discussions, and some conjecture was involved—but some people firmly believe that if we take a leadership role and particularly direct our efforts at

intermediary countries that you would have nations of Europe and other countries around the world following suit.

So it is very important that we take that leadership role and assume responsibility at this point.

Miss SCHNEIDER. I concur with that philosophy. Is there any one country that can be singled out as being a very large consumer of ivory?

Mr. FIELDS. Japan.

Miss SCHNEIDER. Thank you.

Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from New Jersey?

Mr. SAXTON. Thank you, Mr. Chairman.

Let me just ask you both a kind of general question. It seems to me that those policies that Congress puts in place, or that have been put in place in various states that try to deal with environmental problems, and which seem to be the most effective are oftentimes those that are the most simple.

One example that occurs to me is in New Jersey where we are trying to save wetlands. The State of New Jersey put into place a policy that said simply that you can't build or disturb anything within 300 feet of what is considered wetlands. It worked. Nobody had any questions about what the intent of the law was or how to enforce it. If you were within 300 feet of wetlands you couldn't disturb the land.

And there are other equally-simple policies. We tried to save the area known as the "Pinelands" in South Jersey, and an oversimplified version of what we did was to say that in order to build a house or to do anything you had to have 39 acres. That's a pretty simple policy, and it worked.

I'm wondering, with regard to the approach to saving the elephants, whether a fairly simple policy ought to be one that ought to be pursued, such as the banning of importation of ivory.

I know there is walrus ivory, and I'm not sure whether you can tell the difference. And I know that there are certain countries that we might want to permit to take elephants and sell that ivory to this country.

But it seems to me that once we begin to discriminate between ivory from Canada, ivory from certain African countries, that we begin to run into serious problems of enforcement. I just wonder if you'd comment with regard to that.

Mr. BEILENSEN. With respect to distinguishing between the various types and where they are from, I think probably we have some witnesses coming—especially from Fish and Game—who can give you some better answer, perhaps, than we.

I'd like to say to our friend from New Jersey that I think in relatively simple terms about things of this sort, too. Quite obviously saving land and saving elephants or animals are different matters. You can prohibit somebody from building, or whatever, on a particular piece of property, and that sticks. It doesn't work in this case because of the economic incentive of people who make so much money by poaching ivory.

So I started off, Jim, with a relatively simple bill, too, which simply would have banned the importation of all ivory into the United States. Most of the conservation groups—I think with good

reason—think that that is too simplistic an approach. Even if it were successful with respect to preventing any kind of ivory from coming into this country—as you’ve heard, perhaps 10 percent, perhaps somewhat more, but some modest fraction of the world’s carved ivory comes here. We could deny the United States as a market, but that doesn’t solve the problem elsewhere.

I think most of the conservation groups who care most deeply about this, and others, too, think that in order for us to remain players on the world scene and to have some effect elsewhere where there are even larger—especially in Japan—users or consumers of ivory.

We have got to remain and we’ve got to be supportive of CITES, we’ve got to discriminate and say to those—very few, at this point; three or four, perhaps—African countries which do have good management programs and do try to save their elephants that, yes, we will, in order to encourage your good efforts, accept ivory from you; however, we won’t from these other places where the numbers of elephants are declining.

That becomes a very difficult thing when you start talking then about tracing the ivory in international trade once it no longer is in raw form or tusk form but is carved into trinkets and jewelry and goes through Hong Kong, or whatever, then you have real problems tracing it. That is the intermediary country problem which Mr. Fields, in one fashion, and I, in another fashion—actually the staff draft, another fashion—are trying to get at.

It is a complicated—unfortunately, it is a very complicated question and problem, and one where we want to keep the United States involved, and we’re afraid that by simply saying no ivory in the United States we just would be dismissed as a player in the world scene, and the 10 or 15 or 20 percent of the ivory that comes here would start being sold elsewhere, and we could just have dealt ourselves out of the whole game.

Mr. SAXTON. Let me just follow up by saying in the Chairman’s opening statement he indicated—and I think rightly so—that a great deal of the problem comes from poaching. And if one recognizes that fact, then how does one, in terms of enforcement, discriminate between ivory which comes into the country which is coming from legitimate sources and ivory that is not? How does one tell the difference?

Mr. BEILENSEN. Well, there are ways of doing that, depending on how closely it is supervised in the producing countries—the countries to which the elephants are native. I mean, the three or four countries which do have good conservation programs do keep pretty good track of their elephants and how they are killed.

But the overall answer to the problem of poaching, we believe, is to cut the demand. If the demand does not keep rising, if there are limited markets, if you can say somehow that ivory which is illegally taken or illegally poached has no market anywhere in the world, that probably is the only thing we can eventually do to ferret out poaching.

Mr. FIELDS. Jim, if I could respond also, if you believe there is always going to be a certain demand for ivory, I come at this with perhaps a different approach. In my opinion, I would like to see the

ivory, as much as possible, stay in the country from which the ivory was derived.

You talk about something being simple. To me it is recognizable that there are some bad actors in the world— historic bad actors— and I'll point the finger directly at Hong Kong. It is my belief that Hong Kong has known that it is carving poached ivory, and that that ivory was coming through a conduit country of Burundi.

I do not understand why our Fish and Wildlife did not act sooner with their legislative mandate under the Lacey Act—and perhaps they'll answer for us today why they did not act sooner.

I do not believe—maybe I'm cynical after being in Congress eight years—I'm cynical that Hong Kong is going to be a good actor or good player in the ivory trade in the future.

Also, coming back to something that I would hope would be fairly simplistic, that if we are a world leader and we deny these intermediary markets to export into our country, and other countries follow suit, then we create a tremendous economic incentive for that demand for ivory to be satisfied from native African countries, which creates a new industry, it creates hard currency, but, more importantly, it creates an incentive to protect a valuable resource, a resource that now is looked at for tourism, for sport hunting.

I personally think that there is a greater incentive that can be derived, and I agree with Tony. I think that there has to be a multi-faceted approach. We have got to do some things diplomatically in exerting pressure as a leader. I think that we have got to come up with a way to provide some funding that, if there is a new industry that is created, to perhaps offer some assistance and some direction. And I think we have got to come up with a mechanism for funding conservation programs.

Mr. SAXTON. Thank you, Mr. Chairman.

Mr. STUDDS. Before you scatter, let me ask you one question reflecting upon the colloquy that we just held.

Tony, you said that one of the reasons that the total moratorium approach—the total ban on imports—might not be effective is that we are a relatively small part of the world market.

There are some figures floating around—and I gather imprecision is inherent in the problem—but I think I heard you, Tony, said that Japan—did I hear that 75 percent.

Mr. BEILENSEN. I believe that about 75 percent of carved ivory is bought and sold from Japan.

Mr. STUDDS. If that's true it would make it very difficult for 30 percent to be United States, obviously.

Mr. BEILENSEN. Well, there's a 10 percent figure and a 30 percent figure for the United States, and I think one has to do with—I think we consume 10 percent of the world's supply of carved ivory, but 30 percent of it is shipped from Hong Kong. Am I correct?

Mr. STUDDS. My question, before we get—

Mr. BEILENSEN. Japan apparently is the largest consumer by far.

Mr. STUDDS. I understand that.

Mr. BEILENSEN. And other industrialized nations purchase a lot of ivory.

Mr. STUDDS. So we're plus or minus 10 percent.

Mr. FIELDS. Mr. Chairman, also on that point, I think it underscores we don't know.

Mr. STUDDS. I understand. But the question I have is: if whatever we are—it's not a preponderance of world trade, that's for sure. It would appear that it is a relatively small percentage. That being the case, why doesn't the argument regarding the ineffectiveness of a U.S. total moratorium or ban apply, as well, to the other two alternative approaches before us?

Mr. BEILENSEN. I've asked that, myself, several times, Mr. Chairman. I think some of the people who follow us can give you a better answer, only because they deal in the international realities of this thing dealing with other countries and CITES and so on.

They tell us that some action by the United States along the lines that either Mr. Fields or the staff drafted—I, myself, for reasons I won't get into now, prefer the staff draft—will have a real effect on opinion elsewhere that they can go to the CITES people, they can go to the other consuming nations, and it will have some real effect.

Whereas if we just say, "Nothing more here," there is nothing very much we can say. We have sort of, as I said before, dealt ourselves out of the whole process, and nobody's going to be paying much attention to us.

Whereas if we come up with a selective moratorium in ways of enforcing it and suggest to other countries that they do the same thing, apparently it carries a lot of weight elsewhere.

But I think some of the later witnesses perhaps can speak to that better than I.

Mr. FIELDS. If I could draw one analogy, I think we have to do with the elephant what was done with the whale in terms of leadership.

Mr. STUDDS. Are you trying to get my attention?

Mr. FIELDS. I'm trying to get your attention, Mr. Chairman.

[Laughter.]

I think there is a direct analogy, though.

Mr. STUDDS. I understand.

Mr. FIELDS. You provided great leadership there, and I'm sure you'll provide leadership—

Mr. STUDDS. I represent a district that has had two major industries in succeeding centuries based upon the whale. The current one is watching him and saving him and loving him. The earlier ones were less benign.

Mr. BEILENSEN. With enough imagination perhaps we can develop an elephant industry of some sort.

Mr. STUDDS. Okay. If you folks will join us here, we will go to our panel. As I understand it, all six members of the panel have agreed to appear together and to be relatively brief in their oral presentations. We will wait until you get up at the table and get organized.

If there are people in the room who are unable to find chairs and who wish to remain for this panel you are more than welcome to fill in in this lower section here. We will wait for a moment if you want to do that.

Okay. Now, we have six distinguished members of the panel at the table. We are going to proceed in the order in which your names appear on the witness list.

I understand that you have made what I'm sure was a difficult concession to the staff in terms of practicality here that you all have written statements. They will appear in their entirety in the record. We're going to ask you to confine your oral presentation to no more than five minutes apiece so that it will be practically possible this morning to get through each of the six of you and to have an opportunity for the panel to question you and to engage you in some kind of a dialogue.

We run the risk, as you probably know, of being interrupted by votes. The House is in session at this moment. There is nothing remotely rational about the existence we lead, and we apologize in advance for the inevitable interruptions.

We will start with Mr. Ron Lambertson, Chairman of the Standing Committee on the Convention on Trade in Endangered Species, Regional Director for the Northeast Region of the U.S. Fish and Wildlife Service.

Mr. Lambertson.

STATEMENT OF RONALD LAMBERTSON, CHAIRMAN, STANDING COMMITTEE, CONVENTION ON TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA, REGIONAL DIRECTOR FOR THE NORTHEAST REGION, U.S. FISH AND WILDLIFE SERVICE

Mr. LAMBERTSON. Thank you, Mr. Chairman.

I welcome the opportunity to discuss the protection of the African elephant and the role of CITES in offering the needed protection.

In my view, the most significant CITES action with regard to the elephant occurred in 1985 when the parties adopted the CITES Ivory Quota and Trade Control System.

In order to trade legally within that system, parties and cooperating non-parties must set an annual raw ivory export quota and mark all raw ivory intended for export from the African countries.

In addition, tusk export information is sent to the secretariat's Ivory and Trade Control Unit in Switzerland, which pre-notifies the importing country, thereby enabling verification of the shipment when it arrives.

These data are also put into a computer located in Cambridge, England, which is programmed to check for duplicate permits and tusk numbers.

The Secretary General and his staff also track the raw ivory from country to country until it is converted into worked ivory.

The system became operational in March 1986. In 1987 the parties approved measures to further refine and enforce that system. While it has many problems, the CITES system, in my view, represents our best chance for turning around the decline of the African elephant.

Although the system is new, it has shown some positive results. For example, the Secretary General reports that the illegal raw ivory is selling, on an average, 50 percent less than legal raw ivory at the current time. This indicates that the system is putting the squeeze on the illegal ivory.

The Secretary General also reports that buyers have been calling the secretariat to inquire about the legality of particular lots of

ivory being offered for sale. For example, this has happened with a large cache of ivory currently in Burundi. In this particular case, the Secretary General has notified all parties and participating non-parties not to accept this illegal Burundi ivory estimated at approximately 100 tons.

The U.S. Fish and Wildlife Service banned all importations of this ivory and notified intermediary countries that if they deal with it we will invoke emergency regulations under the Endangered Species Act to ban all ivory importations from those countries.

This latter measure caused Hong Kong—a major re-exporter of worked ivory—to take steps to control imports of worked ivory, something that we had been urging them to do for some time.

Mr. Chairman, if you would agree, I would like to submit for the record a letter that we received from Hong Kong indicating their intent to come into complete compliance with CITES in order to avoid any kind of a ban from this country.

[The telegram can be found at end of hearing.]

Mr. LAMBERTSON. Other promising signs include: Tanzania has recently made some large seizures of raw ivory and put the money from the proceeds of the sale of that ivory into their wildlife division.

Belgium, which used to be a major center of distribution for illegal ivory, is now very scrupulously importing ivory and enforcing the CITES system. France has also improved their enforcement.

The CITES secretariat is currently considering rescinding the quotas of several countries that have not been complying with the system.

I have alluded to the system's problems, but let me be more specific. First, for the system to work the Ivory Trade Control Unit in CITES must be fully funded. Currently, funding for the coordinator's position is in jeopardy. The job is renewed on a month-to-month basis and travel is limited. The coordinator must be able to continue to meet with the wildlife managers in order to maintain their cooperation in making the system work, including setting export quotas that are realistic.

Poaching, of course, is pivotal to the whole question of illegal ivory. At a recent meeting of several elephant range states and the World Wildlife Fund International, discussion indicated growing interest in devoting substantial resources in Africa to anti-poaching program activities.

Second, although all of the countries but one are submitting quotas on the calculation sheets furnished by the Secretary General, the quality of the data from those African countries and the commitment by the range states to respond to the conservation needs of the elephant badly need to be improved.

Another problem is the need for better control of the work ivory trade. Once a tusk is carved in the final form, it is no longer covered by the special ivory trade controls, which rely heavily on marking the raw ivory.

We also need to find a method of marking that works for this worked ivory.

In light of the strong international effort being made to better control the international ivory trade, I think that now is not the

time to impose a ban on the United States trade in African elephant ivory. It would send the message to other countries—particularly the African range states—that would weaken their resolve to faithfully implement the CITES system.

Ivory imports in the United States represent a relatively small portion of the imports from African countries. If we were to ban that trade, it would probably be redirected to other countries, as has already been mentioned.

The best way to help the African elephant, in my view, is to support the relatively young CITES ivory control and trade system and the African countries that are trying to make it work. They should be given a sufficient opportunity to show what they can do.

In the meantime, the Fish and Wildlife Service will continue to keep a close eye both on the trade and the biological status of the wild population. We will take protective measures under the existing Endangered Species Act provisions, and we will exert continued leadership under CITES.

Mr. Chairman, that concludes my statement.

Mr. STUDDS. Thank you, sir.

[The prepared statement of Mr. Lambertson can be found at end of hearing.]

Mr. STUDDS. We will go next to Dr. W. K. Nduku, Director of the Department of National Parks and Wildlife in Zimbabwe.

Welcome, Doctor Nduku. It is nice to have you here.

STATEMENT OF W.K. NDUKU, DIRECTOR, DEPARTMENT OF NATIONAL PARKS AND WILDLIFE, ZIMBABWE

Mr. NDUKU. Thank you, Mr. Chairman. And I must thank you and your committee for allowing me to testify here. I hope you will excuse me for a disjointed statement, because before I came here I didn't know that there was such a committee. The only thing that I knew was the rhino one, before which I will speak this afternoon.

However, I came here wearing two hats and as soon as I discovered the fact that I was to speak before this committee I had to contact a few people at home. I come here representing mainly Zimbabwe, and also representing the nine SADCC states, and we share the same opinion.

Mr. Chairman, Zimbabwe is aware of the growing concern for the future of elephants in Africa. We understand that the underlying motives for these hearings are well-intentioned, and aimed at producing positive measures for elephant conservation.

You must ask yourselves two questions. The first is: are elephants in Africa endangered? And the second is: what effects will any proposed legislation have on the survival of the elephant?

I am not sure what information you have been given on the numbers of elephants in Africa. I understand that there are at least 500,000 or half a million, if not more. When this is compared to the crisis facing the black rhino, wherein is doubtful if there are any more than 4,000 animals in the whole of Africa or the world at large, then it cannot be stated that elephants are endangered.

Elephants are certainly not endangered in Zimbabwe. We estimate our present population at some 50,000 animals, and we believe this exceeds the desirable carrying capacity for a country,

which we estimate at 33,000 animals. So we have an excess of 17,000 animals, Mr. Chairman.

Despite our culling programs, the numbers are still increasing. However, I would like to point out that in those African countries where the numbers are going down, the loss is not due only to hunting or poaching. The loss is also due to loss of elephant habitat, and this is a question which your committee probably should address.

There is little doubt that in some parts of Africa elephants are being exploited at a rate which is not sustainable in the long term. There is only one way in which this can be reversed, and that is by better management in those countries concerned, and it is to this end that assistance to the African countries should be directed, and not banning of the products.

Any form of ban will only have the effect of driving the ivory trade underground. It is far better to have the facts out in the open—even if the numbers of elephants being killed are too high—rather than increase illegal trade.

There is a hope for elephant conservation if the problem areas are clearly identified and the data are made available. There is not hope if you make all trade illegal.

In Zimbabwe we have a revolution in land use which is occurring right now. It is ironic that now, in the latter part of the 20th century, after 100 years of trying to make exotic crops and domestic livestock survive in a hostile environment, suddenly hundreds of our commercial farmers are turning to wildlife as the most profitable land use option for future development. We are also making significant progress in convincing our rural people that wildlife is a highly lucrative land use commodity for development.

To convince them, we need a high value associated with wildlife products. If ivory were to become valueless it would be very difficult to convince them to continue to conserve the animal.

Here, too, if the U.S. wishes to help the situation, there are ways it can do so. It would help if your aid agencies stopped viewing development in Africa in rather narrow terms of food crops and improved domestic livestock management.

Influence your aid agencies to support the options which show a higher long-term potential, and which also conserve our natural environment.

At present, aid is having a negative effect on conservation in Zimbabwe. Land which should be used for nothing other than wildlife is being put under the plough and overgrazed by ill-adapted livestock, and veterinary measures to protect the livestock are threatening the more lucrative wildlife land use—I am talking here about the destruction of tsetse fly, which in Africa is one of the tools which are used for conservation.

It is, of course, totally unrealistic to expect the African elephant population to freeze at some point in time with, say, a million elephants. The African continent is in dire economic straits. Human populations are exploding, and people are starving.

Ivory is a form of natural wealth which has been exploited for hundreds of years. In many countries it is the most valuable natural resource. We should be realistic here.

You are asking a man who has a gold mine at the corner of his vegetable patch to ignore that natural wealth and to carry on planting cabbages. It will not happen. You will be extremely fortunate if, by the turn of the century, the numbers of the elephants can stabilize at 100,000.

The second question which needs addressing is that of possible effects of trade bans on ivory.

The effects of total hunting bans in Africa have usually produced the opposite result from that desired. In those countries where elephants are well-managed, where scientifically-determined sport hunting quotas are set, and where elephant numbers are kept at an optimum level through government-organized culling programs, there are no concerns for their future survival. An example is Zimbabwe.

In contrast, in those countries where total bans are in force, elephant numbers have declined even faster than they were before the imposition of the ban. I'm sure my colleague here sitting next to me knows that. The numbers of Kenya are even further down in spite of the hunting ban. This is because people misjudged the cause of the decline.

As I have pointed out, the decline is not only due to poaching, but loss of habitat. In Zimbabwe we are trying to protect both the elephant and the habitat.

The only group which will be affected by a trade ban will be the legal producers and traders. The ban will not influence the illegal market.

A unilateral ban on ivory would have most detrimental effects on the CITES convention. Zimbabwe participates fully in the convention and has, at considerable cost, aligned all her legislation relating to trade in wildlife products with the resolutions agreed by the parties. It is difficult for us to accept legislation promulgated by individual parties which is not in the spirit of the convention. Indeed, should CITES be weakened further by this type of action, we would have to seriously consider our continued participation.

Perhaps it is important to look at history when you contemplate an ivory ban. To the best of my knowledge, no wildlife trade ban has been effective. In the case of rhino horn, there are, in places throughout the world, the most stringent set of trade restrictions possible. They have not produced the desired result. Is there any reason to suppose that such a ban would be more effective, Mr. Chairman?

I would also like to point out, Mr. Chairman, that it is not that the African is insensitive to the depleting numbers of elephants in Africa. We have held a series of meetings—the first one was in India—where, as an African group, we agreed to the legislation in 1981. And in 1985 African experts in elephant met in Senegal, and they made a resolution equipping the president of Senegal to sit on an ivory counsel to monitor ivory trade and to work out a joint marketing procedure.

In 1985, we agreed to the system of export quotas. The quotas ranged from zero for those countries with limited or no elephants to over four tons to those countries with a large population of elephants.

In 1987, wildlife experts met in Zimbabwe and they decided that wildlife conservation is a form of land use, and consequently, a lot of our commercial farmers have gone into game ranging. A ban on one of the commodities which they are likely to produce is going to be viewed very unfavorably by both our government and our people.

All of these events suggest that African governments are sensitive to conservation issues, but they also realize that in countries ravaged by drought, hunger, and shortage of land, wildlife can only survive if it has some economic value attached to it.

We have gone on a campaign to educate our people to conserve all of their natural resources, because in the end it is our national resources which will ensure our continued survival.

Thank you, Mr. Chairman.

Mr. STUDDS. Thank you very much, Doctor Nduku.

Mr. STUDDS. We will go next to Doctor Iain Douglas-Hamilton, who is an elephant biologist.

Doctor Douglas-Hamilton, welcome.

STATEMENT OF IAIN DOUGLAS-HAMILTON, ELEPHANT BIOLOGIST

Mr. DOUGLAS-HAMILTON. Thank you, Mr. Chairman. It is a great honor to appear before your committee.

The decline of elephants, which the first two speakers mentioned, and most of the figures, that they have used, I can confirm from counts which I have analyzed, some of which I have made myself.

In relation to the points made by the previous speaker, Zimbabwe, on the African continent, has an excellent record of wildlife management. But, unfortunately, it is an exception.

There is no question that in most of Africa the ivory trade has driven the elephant downward. This has happened even in many areas that have very few or no human beings at all. For example in the Selous Game Reserve in Tanzania elephants have suffered a 50% decline, and in the vast expanses of Central Africa the large elephant populations have virtually disappeared.

What we are witnessing now is one of the greatest mammalian tragedies of this century.

In East Africa almost every count that we make returns fewer elephants and we see more carcasses. Even Lake Manara, where I worked for 23 years monitoring, and which had a small and supposedly well-protected elephant population, has succumbed and lost over half of its elephants in the last two years.

Nine years ago testifying before this committee I spoke against a ban on ivory exports, convinced by many of the same arguments against the ban that we hear today. I was assured that the CITES treaty would soon work satisfactorily where ivory was concerned. It did not. As an indicator, we have heard the figures of the killing and the decreases.

There are too many middle men in this system. There are too many loopholes which allow the ivory to get into the world trade. The whole system is out of control.

It should have led to united police international action, but this hasn't happened. I don't believe there is time to get the control that is needed. The traders are too clever at finding new avenues. If one centre of trading is controlled they go to another. Even in the United States, itself, a lot of ivory has come in illegally.

At present, the elephants need to be given time to recover, which can only be provided by lowering the world offtake of ivory, and by supporting the national parks and protected areas where they live. We should not lose sight of the importance of field action.

Any legislation that is passed to be effective must lower the world consumption of ivory, both worked and unworked.

There is a feeling amongst many people in Africa that people who buy ivory abroad are just as much to blame as the impoverished poachers trying to earn a living. There are some people who are against the trade, and some people in favor of it. Not everybody in Africa is in favor of the trade as has been suggested. There is a division of opinion.

I would personally like to see a moratorium on ivory trade that will give the elephant time to recover. A moratorium implies putting the situation on hold until some controls can really work rationally. And what is happening to the elephant today in Africa, apart from a few exceptions like Zimbabwe, is not rational. A vast economic and aesthetic resource is being destroyed without any benefit to people or countries in general.

Perhaps in time, if more emphasis is given to law enforcement aspects, the CITES ivory quota system will work better.

A moratorium on ivory imports by the U.S. alone would not stop the world trade, but it will make it less profitable and provide a lead for other countries.

There are many bans in place at the present time. I believe that even Zimbabwe has a ban on the import of ivory. If this is true, why should the United States not also have a ban?

However, in the case of any moratorium there should be exceptions made for range states with ivory legitimately acquired by government, which will soon need an outlet and should be exempted. Hunters, too, should be allowed to carry their trophies home, as I recommended to your committee in 1979.

In summary, I would support the idea of an immediate selective moratorium on all ivory products from non-party CITES states, and from countries without wild elephants. If this does not work, and if the CITES quota system fails to help improve law enforcement, then a total, world-wide moratorium should be instituted by October, 1989.

Thank you very much, Mr. Chairman.

Mr. STUDDS. Thank you, sir.

[The prepared statement of Mr. Douglas-Hamilton can be found at end of hearing.]

Mr. STUDDS. Next, Mr. William Reilly, President of the World Wildlife Fund and the Conservation Foundation.

Mr. Reilly?

STATEMENT OF WILLIAM K. REILLY, PRESIDENT, WORLD
WILDLIFE FUND AND THE CONSERVATION FOUNDATION

Mr. REILLY. Thank you, Mr. Chairman.

I am testifying today on behalf of National Audubon Society, the Environmental Defense Fund, and 22 other World Wildlife Funds national organizations located all over the world, in the major countries of Europe, and including WWF-Japan and WWF-Hong Kong.

With 450,000 members in this country, WWF U.S. is the largest private U.S. organization working worldwide to protect wildlife and control trade in wildlife products.

The WWF family has another two million members around the world. We are field-based. We work with individuals and groups to carry out practical conservation projects on the ground in Latin America, Asia, and Africa. And in Africa, specifically, the World Wildlife Fund family has spent, over the past few years, considerably more than \$1.5 million in direct grants to save elephants and their habitat.

In addition, we support and maintain eleven traffic offices worldwide to monitor and control trade in wildlife products, including ivory.

I want at the outset, Mr. Chairman, to compliment you and Mr. Beilenson for very energetic efforts on behalf of elephant conservation. This is an issue around which World Wildlife Fund organized a meeting just this past April in Lusaka, Zambia, for high level representatives from African countries. It was primarily to hear from Africans themselves about this issue and what should be done about it.

The decline of elephants is proceeding, as you have heard, at a very alarming rate. It is precipitous and catastrophic.

The major cause is an insatiable appetite for ivory, and the incentives created by a very lucrative illegal trade.

The CITES quota system, about which you have also heard, is intended to establish sustainable levels of ivory take from elephants. It is specifically an initiative of Africans, and, in our view, it presently merits the support of CITES' 95 member nations.

The quota system alone, however, will not stop illegal trade. Far too much money is made. We need a highly-energetic, international campaign.

That campaign should include diplomatic and economic pressures against illegal trade, with strong leadership from the United States.

The campaign should aim at reducing world demand for ivory until it balances the supply.

The campaign should provide technical assistance, equipment, and financial support to wildlife departments of ivory-producing nations to beef up anti-poaching and to monitor elephant populations.

The reality of life in the field for anti-poaching squads is very dangerous and frustrating. They are very poorly paid and poorly armed—often with pre-World War I carbines which they use against people armed with machine guns. And if some are also

poorly motivated, we should not be surprised. Many that I have met are highly courageous.

We need to analyze much more carefully the trade itself to determine where the leverage points are and where we should best apply controls. And we need, particularly, to know a lot more about the economics of this trade.

Now, on behalf of WWF, I want to make a commitment to this committee to support the kind of major campaign that I have called for—a major campaign for the elephant—with a significant financial contribution.

This campaign, in our view, would entail the outlay of approximately \$4 million a year for three years. The Subcommittee should, in our view, authorize \$2 million per year for the Elephant Conservation Fund, and if Congress appropriates those funds, WWF will seek to raise and commit a matching \$2 million a year, representing a significant increase in elephant conservation resources, and even more important, I think, a very important signal.

We face an enormous task, but there has been some progress. Singapore, once a major illegal ivory trader, has signed CITES. Burundi, also a major illegal trader, has announced an ivory trade ban. The largest ivory consumer Japan—accounting for approximately 75 percent of Africa's raw production—has formed a traders association and agreed to comply with CITES procedures.

Hong Kong, moving more slowly, recently agreed to begin controlling imports of worked ivory. This movement should, in our view, be encouraged.

Some in this country advocate that all U.S. imports from Hong Kong and Japan should be prohibited. In World Wildlife Fund's view that would be a mistake at this time. These countries are beginning to take significant measures to comply with and support the CITES ivory control system, and now is not the time to penalize them.

If the United States supports the CITES system, it should also support those countries that are making good-faith efforts to comply with it. A ban on worked ivory imports from Hong Kong at this time would do far more to undercut CITES than to strengthen it. Such a prohibition would undoubtedly hasten the transfer of ivory carvers from Hong Kong, where controls are tightening, to West and Central Africa, where there are no controls on worked ivory. The result: continued slaughter of elephants.

The proposed legislation, with WWF recommendations, could make a dent in the problem of U.S. imports. It could also demonstrate leadership and set the stage for needed international action.

I think that actions should be in consultation with African governments which have made clear that they see this problem as primarily an African problem. The elephant is, of course, of international concern, but Africans must be encouraged to assume the fundamental responsibility for elephant conservation in their countries.

The threat of the Secretary of the Interior imposing a moratorium by January 1, 1990, if warranted on the basis of findings at the next CITES meeting in October, 1989, offers considerable leverage in bringing violators into compliance. World Wildlife Fund strongly endorses this proposal.

CITES should consider a world-wide moratorium at its 1989 meeting, depending on progress at that time.

One function, very well served by this hearing and this legislation, will be to put all parties on notice that there is an urgent need for early progress.

Additionally, we propose giving the Secretary of the Interior authority to impose a moratorium on ivory imports to the United States from any intermediary country that imports illegal ivory.

A unilateral U.S. ban on all ivory imports at this time would be counter-productive. It is seen by many Africans as undercutting their efforts and penalizing nations that comply with CITES.

By WWF estimates, the United States accounts for roughly ten percent of the world's consumption of raw and worked ivory. Those are figures from our own TRAFFIC network and the wildlife trade monitoring unit in Cambridge, England.

Our fear is that a considerable amount of that trade could easily be diverted and consumed elsewhere, leaving us without any role or strength to influence elephant conservation from here.

Proposed legislation could strengthen the U.S. hand, as spelled out in my testimony in some detail and earlier in our comments to the Subcommittee staff. We strongly support efforts to shut down remaining routes of illegal trade by severely restricting ivory that enters the United States.

We support measures to prohibit raw ivory from any country not in compliance with CITES and without valid CITES quotas.

Prohibit all imports of raw and worked ivory known to emanate from a country in violation of that nation's laws or CITES procedures, this would prevent worked ivory from Kenya, Tanzania, Burundi, and the United Arab Emirates.

To prohibit ivory from any country that is not a party to CITES, that does not comply with CITES, and that doesn't certify the specific shipment was from a legal source and carved in the country of export. This proposal is aimed at ensuring that Hong Kong implements measures it has promised.

Our State Department and the Fish and Wildlife Service should press Japan and European countries to adopt similarly strict prohibitions. World Wildlife Fund, via its national organizations, will be pushing for the same results.

We need to make elephant conservation an objective of U.S. foreign policy. We need to make it considerably more difficult to launder illegal ivory, and these measures, I believe, would go a long way toward having that effect.

We confront an urgent situation which cries out for an international response. The United States has an important role to play.

We are enormously pleased to see the leadership that you have provided, Mr. Chairman, on this question, and that of Congressman Beilenson and your other colleagues.

I profoundly hope that we will not have occasion to meet here ten years hence and wring our hands over what we failed to do to conserve the African elephant.

Thank you, Mr. Chairman.

Mr. STUDDS. Thank you, Mr. Reilly.

[The prepared statement of Mr. Reilly can be found at end of hearing.]

Mr. STUDDS. We go next to Dr. Susan Lieberman, speaking for the Human Society of the United States.

Doctor Lieberman?

STATEMENT OF SUSAN LIEBERMAN, ASSOCIATE DIRECTOR OF WILDLIFE AND ENVIRONMENT DIVISION, HUMANE SOCIETY OF THE UNITED STATES

Ms. LIEBERMAN. Thank you. I thank you for the opportunity to testify before this subcommittee today on behalf of the following organizations: the American Humane Association, the Animal Protection Institute, Friends of Animals, Fund for Animals, Earth Island Institute, Greenpeace, The Humane Society of the United States, the International Fund for Animal Welfare, International wildlife Coalition, Sea Shepherd Society, Society for Animal Protective Legislation, and the World Society for the Protection of Animals.

Our organizations, with a combined membership of at least two million American citizens, are committed to ending the tremendous suffering inflicted on African elephants by the ivory trade, and their decline towards extinction.

I would like to thank you, Congressman Studds, for calling these hearings. And I would also like to extend a very warm thank you to Congressman Beilenson for his dedicated efforts for more than a decade to protect the world's largest — and indeed, I concur—most magnificent land mammal, the African elephant.

We strongly support H.R. 2999, which, as of today, does have 101 co-sponsors and provides the protection necessary to prevent the wide-spread suffering caused by the ivory trade.

As has been stated earlier, in 1979 this committee had similar hearings. The testimony of our organizations presented then could largely be substituted with one major exception—half the elephants that were alive then are now dead. We cannot afford to delay another nine years.

Virtually all elephant populations in Africa are declining—and I won't repeat some of the horrid statistics you have already heard. But even in Kenya, 91 percent of the elephants just outside the national parks have been lost to poaching.

If I can call your attention to the chart in the back, just to show you some figures on the decreases in the average tusk size, because I think this most graphically illustrates the problem. In 1972 the average tusk traded weighed about 13 kilograms. The average is now down to about 3 kilograms, and a significant proportion is from juvenile elephants with tusks less than half a kilogram. What in the world is happening?

Well, ivory grows throughout an elephant's life, with the greatest growth in the elephant's later years. The decline in tusk size shows that the large, mature elephants are now gone and the ivory hunters are killing younger and younger juveniles to meet their needs.

A complete ban on the ivory trade today would save the lives of tens of thousands of elephants, allow individuals to reach maturity, and finally allow for population expansion.

In many countries in Africa, unfortunately, military and government officials have been directly implicated in poaching and trafficking. Corruption is rampant in all too many governments.

Scientific studies have shown that poaching for ivory is the most immediate threat to the elephants' future. The only truly effective way to stop the slaughter is through the complete elimination of the trade. Halting the demand from the wealthy importing nations such as ours will destroy the incentive to poach the elephants, pure and simple.

I agree that there is a great deal of controversy as to what percentage of the world trade represents the United States. Perhaps we are ten percent of the world trade of legal ivory but there is a tremendous trade in illegal ivory, and nobody has any idea how much is coming out of Africa—not the Wildlife Trade Monitoring unit, not CITES, and not TRAFFIC—because it is impossible to know what the smugglers and poachers are doing everywhere.

We know a tremendous amount is coming out of South Africa, but we don't know how much because it is all outside the CITES system.

CITES has amnestied large stockpiles of raw ivory, and those stockpiles are still in world trade.

As you can see in my written testimony, the entire ivory quota system is a dismal failure, and we have recent information that Hong Kong right now today is still receiving poached, smuggled ivory from Burundi via the United Arab Emirates. Nothing has changed, and unless we have a total ban, nothing will change.

More than 90 percent of the ivory entering the United States comes in as worked ivory, and most of it arrives from Hong Kong.

Importers in Asia buy the raw ivory without verifying where it came from. We have merely to trust the good faith of Hong Kong dealers that they are now doing it correctly, and if you look at their documents it is merely a xerox form—fill in the country of origin. I don't find that satisfying.

Eighty percent of all the ivory traded world-wide is poached. This trade, as I repeat, operates outside the CITES system, and represents approximately 90,000 elephants a year.

We urge you, the Congress, to pass strong legislation that will go a long way to do what the CITES system unfortunately cannot—prevent the extermination of the African elephant, for we are responsible for the slaughter if we continue to allow ivory to be imported into our country.

Unfortunately, the record of the U.S. Fish and Wildlife Service on enforcement of existing legislation is miserable.

At House hearings and Senate hearings in 1979, 1980, and 1981, they assured you that current regulations would be vigorously enforced, and this hasn't happened. They haven't implemented the CITES ivory quota system; they haven't fulfilled all of their obligations under the Lacey Act or the Endangered Species Act.

I have attached some information in my written testimony. The Fish and Wildlife Service has admitted shipments with fraudulent documents, missing documents—the law enforcement division knows full well that it has admitted shipments of poached ivory, and there is no way to ever guarantee the source of worked ivory products from Asia.

When asked recently, a high-ranking law enforcement official didn't even know what countries in Africa allowed ivory exports.

I have also attached to my testimony a list of ivory and other elephant product imports just this April that were admitted by the Fish and Wildlife Service. Of those 124 shipments, 10 came in with the country of origin declaration, "Country Unknown." That's illegal. Is it Burundi? Who knows? But they should not be allowing those shipments in.

There were also, I might add, three shipments with country of origin Mexico. This is a farce.

The committee print contains a provision that we object to quite vehemently, and that is the funding of a trust fund through the imposition of an excise tax on elephant ivory. Such a tax will institutionalize the trade. This legitimization of the trade will make it impossible to stop it in the future. Such a tax will be used by the exploiters of elephants to justify their activities. After such a system is instituted, projects will become dependent on this sort of funding and be compromised themselves by the trade.

Anything that stimulates and institutionalizes the ivory trade creates an increased market for poaching and smuggling. What we need to do is create a decreased market.

The vast majority of ivory leaving Africa is poached. A tax will only stimulate and legitimize this trade, without doing anything at all to actually save elephants from slaughter.

It is impossible to guarantee that worked ivory comes from legally obtained raw ivory. There is no way. We support a ban on all importation of either raw or worked ivory from intermediary countries that do not, themselves, contain native populations of elephants. This will avoid the rampant illegal laundering of Africa and Asia.

In conclusion, the American people overwhelmingly support maximum protection for elephants. I might add that the American people overwhelmingly think this legislation already exists. They want to bequeath a world where elephants remain free in Africa—free of the exploitation and slaughter of the ivory trade.

The time has come for you, their representatives, to pass legislation to truly protect the African elephant. Africa's elephants cannot wait. The time has come to show the profiteers and the poachers that we will no longer be a party to the merchandizing of extinction.

Thank you very much for your leadership and for the opportunity to address this subcommittee today.

Mr. STUDDS. Thank you very much.

[The prepared statement of Ms. Lieberman can be found at end of hearing.]

Mr. STUDDS. We go to the sixth and final panelist, Doctor David Western, Chairman of the African Elephant and Rhino Specialist Group.

Dr. Western?

STATEMENT OF DAVID WESTERN, CHAIRMAN, AFRICAN ELEPHANT AND RHINO SPECIALIST GROUP

Mr. WESTERN. Thank you, Mr. Chairman.

I will begin by stating that the African Elephant and Rhino Specialist Group is a specialist group of the International Union for the Conservation of Nature. Its membership is made up of about 50 African specialists continent-wide, including managers of parks, directors of wildlife departments, and biologists. It is a widespread group.

However, my testimony will not be representing the elephant-rhino viewpoint, although I will draw very heavily upon their documentation which already exists.

My viewpoint, instead, will be given as an individual representing the Kenyan viewpoint, because I think it is very necessary to distinguish here between the biological and the political aspects of ivory.

Let me just go back over, first, some of the view on the status of elephants. I think it is quite important to establish that there is a fairly firm record of what has happened over the last ten years.

The estimates range from three-quarter million to one million. That is because there is a great uncertainty in how many elephants exist in Central Africa underneath forest canopy.

The estimates of one million, I feel, are probably an over-estimate. They are based on one country, Gabon, where the elephant record is fairly good, and the record for the Central African Forest is extrapolated to other Central African Forest areas. So I believe the figure of three-quarter million is more likely to be correct.

Nevertheless, the record, where it exists, for known populations is extremely clear. The trend is downward at about 10 percent a year, as Doctor Hamilton has indicated.

There are more disconcerting trends. The weight of ivory has halved since the late 1970's, indicating a very heavy over-hunting. The numbers of reproductive females now taken in the trade is somewhere in the region of 50 percent. So the figures, themselves, are deceptively good. If one looks at the long-term prospects, actually it is much bleaker than the numbers indicate.

However, one must not take the elephant as a solitary species. One has to remember that there are other endangered species in Africa.

It would be wrong to say the elephant will be extinct within the next few years. The present trends which are there indicate that it won't approach the situation of the rhino within the next 30 to 50 years. There is a very big difference in how endangered and how threatened those species are.

Let's now look to the reasons why the elephants are declining.

There has been a long-standing debate, which was last heard in testimony before Congress, I think, in 1979.

The viewpoint of the African Elephant and Rhino Specialist Group is quite clear: the ivory trade is at the root of the present decline in elephants.

The statistics are very convincing. Africa's population is rising at 3.3 percent a year. Agricultural land is increasing at 1 percent a year. The elephants are disappearing at 10 times the rate at which agricultural land is increasing. We can show from ivory records that that is directly due to the ivory trade and not to habitat disappearance. But that is not to say that elephants will not disappear

at a steady rate because land is being increasingly used for agriculture, a point which I will return to in a moment.

Now, looking at long-term considerations in how to stabilize the off-takes of elephants we have to recognize the following: the need to conserve healthy elephant populations—a point on which I think everyone is agreed, inside Africa and outside Africa.

Secondly: Africa must be concerned first and foremost about human welfare and development. I have heard nothing in this testimony that says elephants create enormous suffering and difficulty within Africa, which amounts to many millions of dollars. Elephant control systems will, in any event, ban or no ban, continue.

Thirdly: we need to keep healthy wildlife populations in general—not just of elephants, but of other species. We believe the elephant and rhino combined are important flagship species in helping conserve other species throughout Africa.

Fourthly: wildlife has benefits and costs in a way that various African countries recognize and have established as a matter of policy. They have tried to maximize the benefits and to minimize the costs, and for poor countries those are important considerations.

By and large, African policies are moving towards more pragmatic position, recognizing the need to preserve, conserve, and develop.

We also recognize that value to Africa is somewhere in the region of \$50 million to \$120 million, depending on how much illegally moves outside the national system.

We must also recognize that the African countries, themselves, dissatisfied with CITES, moved to introduce an ivory quota system. There is a widespread feeling throughout Africa that that CITES system is inadequate and, therefore, has to be improved but not dismantled.

Finally, the U.S. role in the trade is minor—it is on the order of 10 percent. However, the U.S. role internationally in policy, legislation, and conservation, is a major one.

So in my testimony I will be arguing that the U.S. should be angling more for policy legislation and conservation than trade manipulation.

Action required: I think we are all agreed that the trade demand must be lowered. That is the single-most important common denominator.

If we could eliminate all illegal trade—that is, outside the ivory quota system—elephant ivory off-take would be within what the elephant populations at the moment can sustain. So, by and large, the African countries are calling in quotas which are sustainable, but it is illegal trade which is making the present situation unsustainable.

Secondly: it is not enough to regulate the trade, in itself. Otherwise, we end up in the same situation as the rhino. We institute bans world-wide, and the populations continue to go down at exactly the same rate as they did before. We have seen that with the rhino. We have seen that in Kenya where they have bans on ivory.

It is important to institute conservation action in the field now as a matter of urgency and as a matter of priority.

One cannot lower poaching in Africa, as a whole, without lowering the demand. However, one must save selected population now

as a matter of urgency. One must conserve the essence of the species without allowing it to slip away while the trade continues to run amuck.

There are two basic forms of legislation before Congress: trade bans and the combination of legislative action and conservation action.

My personal reasons for opposing a ban are as follows: the U.S. only consumes 12 percent of the ivory world-wide. If you took into account the illegal, unidentified ivory sources, that would be even lower.

A ban would give the illusion of strong U.S. action. In reality, it accomplishes very little except to sweep the problem under the carpet and leave it to other nations—often less inclined—to deal with it.

A universal ban treats all African countries the same. Any ban that is ultimately instituted, if that is so, should be directed to those countries which are delinquent, not those like Zimbabwe which have good policies.

A ban, by and large, ignores the important costs, which I have underscored, to the African countries.

And, finally, I believe that unilateral U.S. action at this point on trade bans will weaken its position where it is precisely strongest—that is internationally—in trying to promote legislation action through CITES.

My recommendations, therefore, are as follows: firstly, that the U.S. should support changes to reform CITES. We do not, at this point, understand fully how the ivory trade works. It is an illusion to believe that we do.

Four organizations—IUCM, World Wildlife Fund, CITES, and the African Elephant and Rhino Specialist Group— will, over the next one year, be looking in detail at the ivory trade to find out what options are possible and what will work best, with the intentions of meeting up with the African countries in July of next year to explore options to put to CITES in October of next year.

My recommendation, basically, is to defer most action in the U.S. until the United States sees whether or not CITES is going to be effective. If it is not, then I would fully support much stronger legislation in terms of unilateral, universal ban.

Secondly: the objective of the Conservation Act for Elephants is to perpetuate large and healthy populations. That is open to various interpretations. The present population, at three-quarter million, is large, by any measure of large African population of wildlife.

It requires that each African country submit a very carefully documented management and conservation plan. I believe that is a pre-condition for all trade between all CITES parties, and if that provision of the proposed legislation would go to CITES it would be a real advance under the CITES act. And I repeat that all countries trading in ivory insist that all other countries from whose ivory they import has verifiable conservation legislation for the elephant.

And third and finally: I believe that the revenue raised by the present legislation is insufficient to have a major impact on conserving elephants in Africa.

I have proposed a taxation—as unpopular as that is—for the following reasons: a very heavy taxation in the region of \$80 per pound could have two effects, which we all agree on. It is going to help reduce demand—and that's most important. But, secondly, it helps raise a very substantial amount of money—in the region of \$7 million to \$10 million. I believe if that money is directed to 30 benchmark populations in Africa, it can have a real impact on saving the essence of elephants.

Let me finally explain what those benchmark populations mean. Those benchmark populations, if protected, the length and breadth of Africa would preserve about 250,000 species, largely in protective areas. They will protect genetic variation and ecological variety of elephants.

But, more importantly—and here's where we have to think about other species and other forms of biological diversity—those 30 benchmark populations which could, realistically, be protected with \$7 million to \$10 million worth of investment, would protect a very large measure of Africa's biological diversity, generally. And other measures before Congress argue that the conservation of biological diversity generally should be the main target of the U.S. policy.

I fully endorse that viewpoint and believe that the African elephant conservation should be directed not in and of itself to elephants, but for the conservation of greater biologic diversity, generally.

Thank you.

Mr. STUDDS. Thank you very much, sir.

[The prepared statement of Mr. Western can be found at end of hearing.]

Mr. STUDDS. This has been a very, very impressive panel. I think we have learned. I know I have learned a great deal.

If I heard you all correctly, there is more or less of a consensus with respect to the nature of the problem, and there appears to be more of a consensus than I had anticipated, frankly, with respect to what we must rationally and wisely might do about it.

I have some general questions.

First of all let me ask a question of Mr. Lambertson of the Fish and Wildlife Service. Just so I am clear on your existing authority, one of the proposals before us is essentially a selective moratorium, to over-simplify it a bit. Under your existing statutory authority to enforce the Endangered Species Act and others, could you not, in effect, take very similar action at the moment?

Mr. LAMBERTSON. Mr. Chairman, under the Endangered Species Act, Congress has granted the Secretary broad authority for promulgating regulations to protect threatened species. It is, as I said, a very broad grant of authority.

We have and can use that selectively, and could use it in this case. However, the point was made, I think by World Wildlife Fund and others here, that this is an important issue. It probably needs some kind of a national consensus. Even though we could use our broad authority to promulgate regulations and prepare a program like this, I think it would be much more effective if we could have that national consensus developed in legislation.

Mr. STUDDS. I will refrain from observing that the Secretary has not, in the past, waited for national consensus before taking actions on important subjects.

But has any thought been given within the Department to acting on this subject, or are you sitting back waiting for the appearance of the consensus?

Mr. LAMBERTSON. Absolutely not. We are looking continually at the status of the population and various options. For example, we used the existing authority to notify countries like Hong Kong and Japan that if they participate in marketing the illegal ivory in Burundi that we will use our existing emergency authority to impose bans on imports from those countries. So we have used it, and we will continue to use it.

However, as the point was made, national consensus and national leadership roles would be enhanced by national legislation.

Mr. STUDDS. The English translation of that, as I understand it, is that you are not going to do anything unless you are directed to do so by statute?

Mr. LAMBERTSON. Not at all. On the contrary. We will continue to use our existing authority.

I don't envision, at the current time, promulgating a massive set of regulations similar to the current legislation. I envision, rather, selective action as we did with Burundi.

Mr. STUDDS. I understand.

Let me say that before us are—again, with the risk of some oversimplification—three proposals, one of which would be, essentially, a total ban on imports by the United States; one of which is, essentially, a selective moratorium—the staff draft; and one of which is Mr. Field's proposal which, as I understand it, essentially would result in our allowing imports only from nations where the creatures exist in the wild; is that correct?

Mr. FIELDS. And are members of CITES.

Mr. STUDDS. And are members of CITES.

First of all, a general question, I guess, with respect to all three of the proposals, and that is: given the fact—I guess that there is a consensus, again, here—that the U.S. accounts for roughly 10 percent—nobody can be precise—of the world trade or consumption, given the fact that that is a very small part of the problem, how can action by the United States, whichever of the three or whatever variation of the three that it might be, how can action by a country which accounts for such a small percentage of the problem have a major impact upon the solution to that problem, or can it? Anybody or everybody.

Mr. REILLY. I think, Mr. Chairman, the question is well-posed. And obviously the fact that we account for so little of the trade imposes some limitations on what we can unilaterally do.

We do account for trade which matters to some places, and specifically to Hong Kong, where our figures suggest that about one-third of Hong Kong's output is consumed in the United States.

That, quite simply, is the source of the leverage that we have to work with Hong Kong itself and to try to get some agreement on what is a reasonable and sustainable amount of ivory that can go into Hong Kong, be policed and responsive to CITES, which they promised, beginning next month, it will be.

I think beyond that we have enormous capacity through diplomatic efforts and through our involvement in worldwide conservation communities, such as CITES, to influence the direction that we go on this question in concert with other countries.

We certainly, by the availability of funds to support wildlife departments in Africa and to strengthen anti-poaching efforts, to try to police the trade, get a better handle on who, in fact, is involved and help cut out some of the middlemen who are taking a very large share of the profits and proceeds from this trade. We have very considerable influence that is a bit belied by the small amount of the trade we consume.

I think the threat of taking more stringent action to shut down that trade has, perhaps, more value to us than were we to take such action—at least unilaterally—at this time.

Mr. STUDDS. Are there others who would like to respond to this? I know you come at it from a slightly different vantage point, so it will be very valuable if you do.

Mr. DOUGLAS-HAMILTON. The total trade of the United States imports may be 10 percent, but my information that the worked ivory imports are a higher proportion of the world trade.

At a recent meeting of the World Wildlife Fund in Lusaka, the figure given was, that 32 percent of the worked ivory was consumed by the United States. Europe consumes 11 percent. If Europe were to follow the U.S. lead, that would then account for quite a large proportion of the world's ivory imports. And if those two large blocks were acting together, perhaps then Japan, that has 38 percent of the worked ivory, could also be persuaded to more stringent measures.

Worked ivory is, at present, that portion of the trade which affords greater loopholes than the raw ivory.

Mr. STUDDS. Dr. Lieberman?

Ms. LIEBERMAN. I might also add that the U.S. is definitely perceived as a leader world-wide in endangered species efforts. The CITES convention has also been called the Washington Convention. I was in Europe recently, and people concurred that if the U.S. took truly strong action for the elephant, Europe would certainly follow.

I might also add that the U.S. is a significant portion of the worked ivory trade, and I think that the 1987 figures that we are talking about in the raw ivory trade—U.S. is a very small percentage—are somewhat distorted by the fact that in 1987 there were large poached stockpiles that went to Hong Kong. I'm not certain that the 1987 figures are a good example of the basic trend.

But whether the U.S. is 10 percent, 15 percent, or 20 percent doesn't really matter. If it is something wrong, and if we have really got to cut out the demand, we have to do it. We have to take that first step.

Mr. STUDDS. Does anyone else wish to respond to that?

[No response.]

Mr. STUDDS. Okay. Again, at the risk of trying to put words in your mouths, having listened to each of you talk about the problem, and recognizing that, as I say, you come from different perspectives and, indeed, from different nations, many of you might not get a chance to tell the United States—tempting though it may

be, and as much as you might wish it—what we should do all of the time, if I hear you correctly: Dr. Lieberman, you clearly favor the total ban?

Ms. LIEBERMAN. Right.

Mr. STUDDS. The rest of the panel, if I am interpreting correctly what you are saying, are coming down more or less on the side of the selective moratorium approach. Is that a fair reading of what I hear? Any head shaking. I see all but one nodding. Dr. Western, you are the non-nodding head. Did I misinterpret what I heard from you?

Mr. WESTERN. No. I have suggested that I strongly support the African Elephant Conservation Act as it is dressed, which would use the moratorium selectively. But I would also make the point that I think it is important to use the leverage that the U.S. has to impose a more unilateral ban as the key to more wide-spread bans in the event that CITES doesn't work late next year. That is the leverage of the U.S.

Mr. STUDDS. I appreciate that.

Let me just say this point: we will proceed. I'm going to recognize, I think, Members of the Subcommittee first, and then Members of the full Committee, and then distinguished guests.

I will go first to the gentlelady from Rhode Island.

Miss SCHNEIDER. Thank you, Mr. Chairman.

I'm sitting here and I can't help but think that one of the books that impressed me the most when I was growing up was "The Ugly American." And I regret that all too often the United States passes provisions or policies or laws where we are attempting to tell other nations what it is they should be doing.

Oftentimes what we are finding—more often than not—in the environmental areas is that we are not living up to our own recommendations to others. In other words, we are not practicing what we are preaching.

Mr. Lambertson, this is a lead-up to a question to you. I just recently spoke with Mr. Dunkle about the Fish and Wildlife Service violating the Endangered Species Act and CITES insofar as the pandas are concerned. Now I am wondering if, in fact, the Fish and Wildlife Service is, once again, supporting provisions, but yet not minding their own shop insofar as allowing several illegal shipments of ivory into the United States, including some shipments from Zaire, which had an export ban in place; including Angola, which was not a member of CITES; and also India, whose elephants are endangered, making the entire importation of them illegal.

These activities on the part of the Fish and Wildlife Service took place between 1983 and 1985, and I would like you to comment as to why they took place and any other response you would like to offer us.

Mr. LAMBERTSON. Thank you, Miss Schneider.

Let me just start out by saying that the U.S. probably has the most comprehensive law enforcement system in the world as far as controlling imports and exports. We are the only country in the world, as far as I know, that has full-time wildlife inspectors. Most countries rely upon their customs agents to enforce their wildlife laws.

The U.S. Fish and Wildlife Service, with appropriations from Congress, funds 56 full-time wildlife inspectors who work with our trained special agents to enforce these laws.

As far as the specifics, I would like to ask Mr. Clark Bavin, who is the Chief of our Law Enforcement Division, and is here today, to address those.

Mr. BAVIN. Thank you. This question is a very complex question, and I haven't looked at the specific shipments which you are talking about, so let me sort of respond in general, if I may.

When shipments come in, the data are entered into a computer. Oftentimes there are problems in entering the data because clerks punch the wrong buttons or there are coding errors, so sometimes on a printout it will appear that something came from a country that it didn't come from.

So what I'm saying is: unless I looked at the specific shipment you are referring to, it is hard for me to answer.

Also, in regard to trade bans, many times an African country will announce a ban. That announcement may or may not be, in fact, the law. It may simply be a statement of policy.

In some cases there are exceptions to the ban, either for trophies, or for ivory that has been confiscated by the government and sold. So sometimes where a particular African country has a trade ban on, and it appears that there is a ban, the country, itself, will issue a permit to allow exceptions.

So, again, unless I look at the specific case, it is hard to answer.

With regard to Zaire, there is no question that some shipments did get into the country and were cleared by our inspectors. Those shipments had permits issued by the Zaire government accompanying the shipment. The inspectors, in examining the permits, thought they appeared correct and cleared the shipment.

Subsequent to that, we have checked with the Zaire government and have preliminary indications that those permits were fraudulent. The matter is under investigation. There are over 116 tusks—around \$100,000 worth of ivory—that has been seized from these shipments, and there are several shipments involved that have been seized.

In addition to that, the fact that we have 56 wildlife inspectors sounds impressive; however, there are 75,000 to 80,000 commercial shipments that come into the United States each year, and that is a lot of shipments for us to look at.

Furthermore, we rely heavily on Customs for those shipments to be referred to us for inspection in the first place. Sometimes those slip through the Customs network.

So, there are all kinds of reasons why illegal shipments might enter the country. I can just assure you that we are trying to do the best we can.

Miss SCHNEIDER. Well, I would very much appreciate it if you could look into the specific cases between 1983 and 1985 relating to the countries that I mentioned.

Another question that I have has to do with a comparison of the U.S. importation of tusks in 1986 with the authorized exports from African countries under the CITES ivory control system.

According to the information that we have, the United States imported ivory in cases in which the export was not authorized by the

following countries: Central African Republic, Ethiopia, Liberia, the Sudan, South Africa, and Zaire.

Can you give me a more specific answer as to why you have not complied with that particular system?

Mr. BAVIN. First of all, I'd be glad to supply it for the record. If you could supply the specific shipments, we would be glad to comment on those. But without knowing exactly the shipment I can't comment in general.

[The information to be supplied can be found at end of hearing:]

Mr. BAVIN. I think there is a misunderstanding here, and I'd like to clarify something. The quota system is not the law. The quota system is a voluntary system agreed to by the parties to CITES. It is the result of a resolution passed by the Conference of the Parties. It has no legal binding on the parties whatsoever. It is simply a recommendation.

The countries that submit quotas are encouraged to do so if they want to export ivory. They can amend that quota any time during the year, as we understand the system.

If we get a shipment from a country that has not supplied a quota to the Secretariat, or has said they intend to do it, but it has a legal document from that country, a legal CITES document, we have no choice but to admit that into the country. So it is not illegal under the law of the United States.

Miss SCHNEIDER. Do you think that your law enforcement officials understand that?

Mr. BAVIN. As far as I know they do.

Miss SCHNEIDER. Because some of them have admitted that they don't know which countries outlaw the exports, and there seems to be some confusion among the enforcement officers.

Mr. BAVIN. Well, that is possible. We have training programs, and we try to do the best we can.

I don't know how to respond to that other than that.

Miss SCHNEIDER. All right.

Let me finally ask: In terms of the report on the elephant product imports, under ivory carvings it is listed "unknown country of origin," and there were eight shipments. I'm curious as to—this is your testimony, Doctor Lieberman—you had indicated here that there were eight shipments coming from unknown countries.

Now, it seems to me that the Fish and Wildlife Service ought to be able to better define where those shipments are coming from. Can you comment on that?

Ms. LIEBERMAN. I agree. Those statistics were from the Fish and Wildlife Service. That is where I obtained them.

Miss SCHNEIDER. Yes.

Ms. LIEBERMAN. They have no record whatsoever in the documentation on the shipment where the country of origin is. That's part of the problem. There is no way of knowing when worked ivory comes in, and they're not stopping shipments that don't even bother to declare the country of origin—though we're not convinced that when the country of origin is declared that's where it is really from, anyhow. That is part of the problem here.

We can make all sorts of laws we want—it's okay for this country, it's okay for that. It may be all smoke and mirrors because

they will just fix the documents according to the country we say it should be.

Miss SCHNEIDER. Mr. Lambertson, do you have—

Ms. LIEBERMAN. By "they" fixing documents I don't mean the Fish and Wildlife Service.

Mr. LAMBERTSON. It might be more appropriate for Mr. Bavin to respond to the specifics on how that report is prepared.

Mr. BAVIN. I'm not sure whether Doctor Lieberman looked at the full package or just the document. Do you know for sure?

Miss SCHNEIDER. Both. In the printout for the month.

Mr. BAVIN. If it is the printout for the month, that brings up one explanation. The declaration that the data are keypunched from may not show a country of origin. It may be shown on the accompanying documents or permits that would be attached.

Moreover, for worked ivory, by regulation, we don't require the country of origin to be declared. It is generally accepted that it should be, but we don't hold up shipments for that not being on there.

Miss SCHNEIDER. Let me just mention that as the ranking member of the Oversight and Investigations Subcommittee we intend to hold a hearing, and I am hopeful that you will have the specific answers to my previous questions prior to that time, but we will be looking into the enforcement activities of the Fish and Wildlife Service.

Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Delaware?

Mr. CARPER. Thank you, Mr. Chairman.

Dr. NDUKU, I missed your testimony, and this may have already been mentioned: What are the principal countries of origin for ivory today?

Mr. NDUKU. Can you repeat the question?

Mr. CARPER. Yes. What are the principal countries of origin for ivory today?

Mr. NDUKU. The principal countries of origin?

Mr. CARPER. Origin.

Mr. NDUKU. The producing countries?

Mr. CARPER. Yes, sir. What countries does the ivory come from in the beginning? I have information before me that suggests that Zaire is the largest producer. Second would be Tanzania?

Mr. NDUKU. Yes.

Mr. CARPER. Zimbabwe is really in the middle of the pack. Okay. That's population.

In terms of actual exports of ivory, which of the countries are the principal exporters?

Mr. NDUKU. I think Zaire.

Mr. CARPER. Zaire?

Mr. NDUKU. Zaire.

Mr. CARPER. Other than Zaire?

Mr. NDUKU. We produce some. Our population is about a tenth of the African population. You have Botswana that produces some. Tanzania a bit—although there is a ban. One should realize that there is ivory that is produced and just sits there. They have to export it or sell it somehow. There is Zambia, and then there is South Africa.

Mr. CARPER. The ivory that is produced and exported, is it principally exported to other countries which rework the ivory and then further sell it or export it again?

Mr. NDUKU. I can only talk in terms of our marketing procedure. We have ivory which is produced mainly from sport hunting. The hunter takes his trophies to his own country. That is set aside.

And then we have ivory that we produce from our game management programs in order to stabilize population. This ivory is determined by our government to support our own local industry, so we sell it to our own local consumers.

And then we have a bit of ivory that we export outside, and I think records are there in CITES. We declare every consignment that goes out.

Mr. CARPER. All right. My next question is a follow-up to my first two. My understanding is that most of the ivory that might be purchased here isn't bought from Zaire, isn't bought directly from Zimbabwe; we buy it from a country I will call a "middleman"—someone who has processed or worked on the ivory.

Rather than to permit exports from these intermediate producing nations, what if we were to permit exports only from the producing nations? Would that somehow alleviate or make easier the enforcement of—

Mr. NDUKU. When we sell ivory we don't make a distinction between selling it to the United States or selling it to Japan. As far as we are concerned, Japan is the end-use country. What they do with the ivory afterwards is none of our business.

But we can't stop you from imposing a ban on importing from any country. It is your privilege.

If you feel that much of the poached ivory goes through these intermediary countries, please do so. Impose a ban. But don't put a ban on the producer countries that are doing it legitimately. This is what I'm saying.

Mr. CARPER. Thank you. Let me ask the other members of the panel: Does it make sense for us to place a ban or moratorium on the intermediary countries as opposed to the countries of origin? Does that simplify the process of overseeing defiance? Anyone? Mr. Reilly.

Mr. REILLY. Mr. Chairman, as I made clear in my statement, we do not believe that it does. One has to be very sensitive to the fact that whatever influence we may have on some of the intermediary countries—and in particular I concentrated on Hong Kong in my statement—it is beginning to have some effect, and there is some indication that some of the most notorious traders—middlemen—in this field have begun to prepare for a moment when perhaps we no longer permit ivory to come from places like Hong Kong, or when ivory cracks down and only trades in legal ivory by moving carvers to third countries, which one trader has already done by moving 60 Hong Kong carvers to the United Arab Emirates.

The United Arab Emirates, having withdrawn from CITES, is not a party and, therefore, legal trade going in will be unpoliced, and as it comes out as worked ivory, then perhaps to go to Hong Kong or to Japan or someplace else—Europe or the United States—is not subject as worked ivory to the CITES quotas.

So, in our opinion, that would be a mistake at this time.

Mr. CARPER. Anyone else on the panel? Anyone else might have a—

Mr. WESTERN. Can I address it, too? I feel that one of the immediate effects would be to put a much larger volume of ivory outside of the CITES monitoring system because it is worked ivory.

We must also remember that ivory has value when it is carved because of the intricacy of the carving, not simply the value of the ivory as raw material.

The very best ivory carving is done in Asia, where the families are artisans who go back many, many generations. While it might be very reasonable to suggest—and I think many of the African countries would support this view—that ivory ultimately be carved in Africa, too, so a very large portion of the benefits go directly to the African countries, the problem with that is one of time. It is something to aim for, I think, over about a five-year period perhaps. But you cannot relocate entire industries over a very short period of time.

I think if you were to force it at the moment, all it would do is create a very big, undetectable market. There is one particular trader at the moment, for example, who is setting up in Zaire—ex-Asia. That ivory will be undetected, and I think that will make the system more difficult to police, in effect.

So I would favor the move in the long term, but I think it has no merit in the short term.

Mr. CARPER. Let me ask—go ahead, doctor.

Ms. LIEBERMAN. I would just like to say that we feel a great percentage—we have evidence a great percentage of the trade is already outside the CITES ivory quota system, and that a ban on ivory from the intermediary countries will send a strong message to them, and will put a wedge into that trade and begin to stop some of what is going on in Hong Kong right now. All that is going to happen, otherwise, is you're going to have—if you have some sort of limited moratorium you'll have the Hong Kong dealer with his warehouse of legal ivory that he can point to, and his other warehouse of triple the volume of all the illegal poached ivory that is going to come out anyhow.

We feel that a ban on intermediaries is a step in the right direction, but it has to be along with some very extremely strict moratoria or ban on the exporting—the habitat countries, as well.

Mr. CARPER. One last question if I could, Mr. Chairman. We have three, as I understand it, pieces of legislation that are either before us or are about to be before us—one from Mr. Beilenson, another from my colleague, Mr. Fields, and a third which our committee staff has been working with. What I'd like to do is ask a couple of you, if you will, to help us.

The next step in the legislative process will be what we call markup in the subcommittee to decide, among the options before us, the legislative options which we like best, and pick and choose from those.

I'm going to ask you to help us develop, if you will, a consensus bill—just in a couple of minutes. We do it over a couple of hours or days or weeks.

Maybe, Dr. Hamilton, you could give us some idea. If you were marking up a compromise bill—a consensus bill—we have these

three options which were described earlier today, what should that consensus bill look like?

Mr. DOUGLAS-HAMILTON. I'm sorry. I didn't hear the last part of the question.

Mr. CARPER. What should that consensus bill look like?

Mr. DOUGLAS-HAMILTON. It looks as if we're nearly there. We have got everyone agreeing that the non-CITES parties should not be traded with. We agree, also, that countries without wild elephants should not trade raw ivory.

Now, there is the question of whether or not we accept ivory from the intermediate countries in worked nature. I share the same ways as Dr. Lieberman, because the ivory traders are always several steps ahead of the measures to control them, and by removing Hong Kong, although one can feel great sympathy for the carvers, it is really the traders that one is getting at, and the major traders are, at present, centered in Hong Kong, and they have been bucking the system for an awfully long time.

It is true that they will probably try to switch to another entrepot, but this time we should try to be a few steps ahead of them and to respond quickly to whatever that new entrepot might be.

Mr. CARPER. Again, my question was: help me develop a consensus bill. It may not be a fair question, but that's my question.

Mr. DOUGLAS-HAMILTON. Do you mean on the spot now?

Mr. CARPER. You bet. We'll go to Mr. Lambertson.

Mr. LAMBERTSON. Mr. Carper, I think there are three major provisions that should be in consensus legislation: authority for selective bans on intermediate countries that don't support the CITES system, number one; number two, the criteria for selective bans against producer countries that don't support the existing CITES system; and, three, some way to get funding to the producer countries so that they can have adequate management programs. Those are what I consider the three very important provisions.

Mr. CARPER. Good. That's basically what I was looking for.

Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas?

Mr. FIELDS. Mr. Chairman, I've got some questions ready, but demonstrating our bipartisanship and the great respect I have for the gentleman from California, I would be glad to let him go first, if he would like.

Mr. BEILENSEN. Go ahead.

Mr. FIELDS. First of all, Dr. Nduku, let me just commend what your country has done. I have been in Zimbabwe two times, and I've been in Matese, I've been in Mascume Forest, I've been in the Zambese Valley, I've been in Somoto, and I've seen what your national parks people have done, I've seen what your forestry commission has done, and your country has committed great resources to being a country that deserves a great deal of commendation and should really be held up as an example.

I just wanted to say that to you, and hope that you will continue in that particular respect.

Mr. Lambertson, if I could ask you: if I just understood what you said would be an appropriate bill, the first two aspects of that—a selective ban on intermediate countries, and a selective ban on producing countries—can't you do that now?

Mr. LAMBERTSON. Well, Mr. Fields, we could. The question that we've discussed before is what kind of criteria should be developed. We could, tomorrow, take the criteria in the draft legislation and promulgate regulations to do that. Yes.

The funding provision would be the one that we'd have difficulty with.

The one thing that would be lost with those regulations, though, was the point made by the World Wildlife Fund—Mr. Reilly; that is, a national consensus and a national effort to draw attention to this as a major issue in the United States.

Regulations promulgated by the Fish and Wildlife Service do not attract that kind of attention. Congressional legislation does.

The increased emphasis that would come with national legislation would enhance our position to negotiate with other countries. We could say our Congress has passed recent legislation and it is a very important issue with our public in America.

It would greatly enhance our position in negotiating with other countries, in taking a leadership position, and in supporting the kind of effort the World Wildlife Fund mentioned to get out in front of this.

We could do a lot of this by regulation, but the added emphasis with national legislation would be very helpful.

Mr. FIELDS. Dr. Lieberman, do you think we should go further?

Ms. LIEBERMAN. Certainly. Certainly. And I think we have to do two things, one of which is: if we don't make a dent in demand and if we don't educate the American public that there is something wrong with buying ivory, that it is not in the interest of elephant conservation, we're not going to go anywhere. Nothing is going to happen.

One division of the Humane Society of the United States is the National Association for the Advancement of Humane Education, and it is launching a new effort to educate children around the country about where ivory comes from, what it is, and that, in effect, the purchase of ivory is not in the interest of conservation.

I feel that any consensus legislation has to come from the other direction, not to say that we might impose selective bans on a few countries that can be shown to be doing something wrong. Rather, we have to have a complete moratorium, stop the whole thing, then have the Secretary of the Interior and the Fish and Wildlife Service begin to look and study what is going on.

If there are countries that are doing everything correctly that we do not want to punish, then perhaps we will selectively allow imports from those countries, but not to take it from the other direction at all, because otherwise I think we will have no impact on the demand.

Mr. FIELDS. Obviously you and others like you have studied this extensively. Is it your belief that Hong Kong, in the near future—or in the distant future—will be a good actor in ivory trade?

Ms. LIEBERMAN. No. No, I have no evidence that Hong Kong is going to change. I have evidence that they will say they are going to change, and they will find all sorts of documents that from now on everything is fine and we promise we'll do it right, but I really don't think anything is going to change.

Who knows what will happen in Hong Kong after 1997, but certainly up until then nothing will change.

Mr. FIELDS. Mr. Reilly, I understand what I think I heard you say two times about if we ban intermediary countries that we could actually be creating a problem somewhere else.

But I think in saying that you accepted one of my basic beliefs that if we ban non-producing intermediary countries, that the carving, in particular, would shift to a country in Africa that does produce.

What I was going to ask you was: if we were to expand the criteria for the importation in this country—as an example, say that there could be no importation unless the country is a member of CITES, that the country has to have a population of African elephants living in the wild, that the country has to be a part of the African continent, and it has to submit a raw ivory quota to CITES each year, that it has to be certified by CITES or by the Secretary of Interior or some other group that we could designate, that they have or are making substantial progress toward establishing a good elephant conservation program, that country has a population of African elephants which is not declining by any significant amount each year, that country does not obtain ivory from any nation which our Department of Interior has banned or placed a moratorium on, and if we were to put a criteria that that country does not export ivory in excess of 25 percent of its native elephant population as determined by us and by the CITES secretariat, would that satisfy some of your concerns for an industry being created in countries that have indigenous populations?

Mr. REILLY. I think, Congressman, it's very desirable to move toward encouraging the creation of carving industries which take more of the value added for the African countries. There is no question that that is where we would like to see things go.

We are a long way from being there right now, and, as I said, I think we are very concerned that if trade moves from intermediary countries over which we have some—however limited—influence, to other intermediary countries, or perhaps Zaire, dealing with some of the same traders, begins to play the large role that it would like to assume, albeit it in Africa, we may have far less influence. We may see far more of a problem then we have right now.

We have to recognize, I think, that there is more awareness, more knowledge, and probably more influence and control over ivory traded out of Africa to Asia than Africa traded among the African nations, themselves, at this time.

So I think to initiate that procedure right now would not be satisfactory. I suspect the response to it would be that some of these same traders would very quickly relocate carvers who work for them from some of the intermediary countries; they would move them to some of the producing countries, and the concern about documentation, oversight, policing CITES quotas, transfer among African countries would be more severe even perhaps than it is right now.

Mr. FIELDS. I don't know if you understood what I said. In essence, with these additional criteria we could place a selective moratorium on African nations.

I think earlier in your statement you talked about profit. I know, for myself, I would much prefer to see profit made in countries like Zimbabwe—

Mr. REILLY. So would we.

Mr. FIELDS [continuing]. In hard currency to help build those third-world countries.

Today, on the front page of the "Washington Post"—and as I understand, one of the primary subjects of the Toronto Summit, was the debt problems of countries in Africa and what can be done to create industries within those countries to attract currency. It seems to me that this is an opportunity.

Mr. REILLY. I completely share that concern. When just asked: what would be the consequence if the country involved without a carving industry at this time, without a long history of involvement in this trade, were to do a relatively minimal amount of working of ivory and export that, subject to a variety of documentation over which we might or might not be sure that we had some influence or control—I think the best thing this Committee in this legislation can do is to put us on a course where there is a reasonably substantial likelihood that we would finally implement a ban on ivory trade worldwide in no more than a year if there is no progress in complying with CITES in the meantime.

I think that is the best incentive that one can create for the countries in Africa to take a larger role in policing this problem; it certainly should not be done without resources being made available by the United States, I think, and conservationists, generally, to strengthen wildlife departments in Africa.

I think given the time that that would allow us we could learn considerably more about the ivory trade, and perhaps, for once, get a jump on some of these traders.

Mr. FIELDS. I hate to pose this in the negative fashion, Doctor Hamilton, but do you think CITES will work within the next year?

Mr. DOUGLAS-HAMILTON. I'm afraid I'm very skeptical, but if it can be somehow coerced into giving greater emphasis toward law enforcement, that would at least be a very positive step.

And if we have the prospect of a moratorium just on the horizon, that, again, would be a very positive factor.

The only thing I know for certain is that I see the elephants decreasing, and that that goes on. And I very much doubt that that will stop over the next year.

Mr. FIELDS. One last question—I know the time is short—Dr. Lieberman, what is your position on the imposition of a tax? What effect would that have?

Ms. LIEBERMAN. We're totally opposed to the imposition of any tax on the importation of ivory. As I discussed in my testimony, we fear that this will institutionalize the entire trade, will set up programs in Africa that are dependent on the trade, and it will be next to impossible to ever dismantle it. It is extremely dangerous because it allows the poachers, those who exploit elephants, to be able to reap profits.

We have talked to people who are working in Africa and we have asked what will be the consequence of this tax. They have told us it would be increased incentive to poach more elephants.

We think it is a very dangerous precedent.

Mr. FIELDS. Dr. Western?

Mr. WESTERN. I fail to see how a tax at the U.S. end is going to tax the price of ivory ex-Africa. Those are two independent price points.

The importation to the U.S. would be at the world price, generally. The U.S. is importing ten percent of the world ivory, so it is a very small fraction. It is not going to have much leverage.

Any tax would simply be imposed within U.S., and would be appropriate by the U.S. to certain African countries for conservation. That would not provide incentive.

The point of providing a heavy tax would be to depress the sales of ivory within the U.S., which I think it would do if that tax were heavy enough.

But I should add at this point that I think it is more important to see funds ex-U.S. in whatever form, either tax or appropriations, come out in this period of time. I think that is an absolute prerequisite of any action, because whatever action the U.S. takes at this point is not going to affect the trade very much in the next year, whereas saving certain populations in Africa can have a very real and immediate effect.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you.

The long-suffering gentleman from California has recognized the second bell.

Mr. BEILENSEN. The gentleman has not suffered at all today. He has been suffering for the last nine or ten years.

But since this gentleman to his left has agreed to hold these hearings, and has been such a strong interest in it, and the man from Texas has joined with this gentleman from California in pushing some kind of legislation to help save elephants, the gentleman is no longer suffering.

I appreciate very much, Mr. Chairman, your—no, I always look like I'm suffering, but I'm not.

We do appreciate your holding this hearing, and I do very much appreciate the support of my good friend Jack Fields.

We only have a very few minutes left. Perhaps some questions that we haven't gotten to we can submit to some of the witnesses later on, Mr. Chairman, and get their answers later.

Mr. STUDDS. We would ask the panel, if they would not mind, if members—Mr. Fields or Mr. Beilenson or others—have questions in writing later if you would respond we would be very grateful.

Mr. BEILENSEN. Let me just ask two or three very brief questions, if I may, if we have time for that.

A quick one to the Fish and Wildlife people: what are the criteria you use to put a species on the endangered species list? That is: if, in a couple of years, for example, the elephant continues to decline at the rate that it apparently is now, could you, on your own motion, as it were, declare these folks to be endangered other than just threatened?

Mr. LAMBERTSON. Mr. Beilenson, if within the next year or two we do not see substantial progress in implementation of the current CITES system and we still aren't comfortable that the African elephant populations are being protected, there are two ways that we could impose additional protection.

First, we could elevate the current listing under the Endangered Species Act from threatened to endangered status. The criteria are spelled out in the Endangered Species Act—basically declining population, over-utilization from poaching, and declining habitat—the same situations that we are looking at currently.

Mr. BEILENSEN. What is the result of that elevation to that status?

Mr. LAMBERTSON. Endangered status would include a total ban except for very limited scientific research and propagation imports. It would stop all commercialization in the United States.

Mr. BEILENSEN. How about hunting? Could you do that?

Mr. LAMBERTSON. We could. There is currently an exemption in the act for elephant ivory taken legally under CITES, so we would not restrict that.

Mr. BEILENSEN. So that you could do something—

Mr. LAMBERTSON. That would be allowed.

Mr. BEILENSEN. Do you have to wait until it is fairly obvious, at least to some outside people, that there may not be any elephants left in a few years before you did that, or—

Mr. LAMBERTSON. No. Not at all.

Mr. BEILENSEN. You could do that in a year or two?

Mr. LAMBERTSON. Yes. We could say within the next year or two that the current international system is not working and we are going to act using our domestic legislation, the Endangered Species Act.

The second approach is that we could go to the CITES conference a year from this fall and take the position that the status of the African elephant should be raised from Appendix II to Appendix I, which is the equivalent of our own endangered list.

Mr. BEILENSEN. And that would result in a world-wide—

Mr. LAMBERTSON. That would result in a world-wide elevation consistent with our own domestic legislation.

Mr. BEILENSEN. What chance of success do you think we might have at that if that is what we were proposing at the next CITES meeting?

Mr. LAMBERTSON. Mr. Beilenson, I think it depends entirely on how successful the current system is.

Mr. BEILENSEN. Will we know by next year in Djakarta?

Mr. LAMBERTSON. I think we will have some better signals. For example, there is the Burundi ivory. We have 100 tons of illegal ivory sitting in Africa. Everyone knows it is there. I'm very anxious to see if we can prevent it from slipping into Hong Kong. If we can't, I think we have got to do something. If we can hold that ivory in Burundi a year from now, so that it can't get into the international markets, something has to be working.

Those are the kinds of things we have to look at during the next year.

Mr. BEILENSEN. Thank you.

Mr. Chairman, I'd better not ask any more questions. We've only got about nine and a half minutes left.

I think the hearings have been extremely useful. I think people do agree, in general, that something has got to be done. I'll frankly say that I'm a little impatient with those that are—at the outset a couple of the witnesses testified somewhat similarly to some of

those that testified nine years ago that there are other things to be done, we ought to wait and see what CITES does, and so on.

I think, in general, people have come to an understanding that we can't wait very much longer. We do hope, of course, that CITES takes strong action next year at its next meeting.

Most of us are convinced that if the United States acts in some fashion this year it might encourage action on the part of others by next year, if not before that time.

We're convinced that we have got to do something here, Mr. Chairman. Thank you again, very much, for making yourself and your committee available throughout this entire morning.

I should say also, as the Chairman, himself, understood from just having heard the people's testimony, even though they all started out coming from kind of different points of view and perspectives, there is relatively general agreement about the need to act, and really, I think, about what ought to be in any particular bill.

And, in fact, if I may say so, Mr. Chairman, your staff has done an enormously effective and good job over the last couple of weeks, especially having to deal with all of these various groups, and I think people are coming together pretty strongly on what ought to be in such a bill.

There are arguments over Mr. Fields' particular concerns about banning all intermediary countries. Most of us believe that that has to be coupled with something else, and there is general agreement on that.

All of us want, in some ways, to contribute to conservation in Africa, but, as you all understand, that becomes complicated. You're talking about taxes. You're talking about sending a bill to another committee. You're talking about offending some people in the conservation area of the world who believe that this legitimizes, to a certain extent, the taking of elephants or whatever. So that, in a sense, blows apart our consensus if we get into that here in this committee.

We're also concerned, then, about national appropriation from other committees and other years to actually make this thing work. So that is something I think we should pursue, but if I may say so, Mr. Chairman, I hope it is not in any bill that comes out of this particular committee because I think it will slow up matters an awful lot and perhaps make it impossible for us to act at this time, and I think it is necessary and important for us to act this year, and I thank you very much for your interest, for your support, for your help.

I know we have to go over there and vote.

Mr. STUDDS. Let me just conclude by thanking, first of all, the witnesses. We have sat through many a hearing over the years here, and I think I can candidly say this has been one of the more informative, constructive and helpful.

I know that each of you individually has worked with committee staff. We don't have unanimity, but I think we are close to consensus, and that means a great deal.

We're going to try to act.

We appreciate your patience.

I thank the gentleman from Texas for his leadership, and the gentleman from California. I am certainly somewhat fearful of

opening the door. I think there may be a large number of elephants trumpeting their appreciation to the gentleman for his leadership out there.

The subcommittee stands adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[The following was submitted for the record:]

STATEMENT OF HON. BOB CLEMENT, A U.S. REPRESENTATIVE FROM TENNESSEE

Mr. Chairman, first let me thank you for holding these very important hearings today. The issue of a threatened elephant population is very serious and must be addressed immediately if the species is to survive.

Although I was not here back in 1979 when this issue first arose in Congress, it is my understanding that the elephant population was then thriving at 1.3 million. Now only eight years later the population has decreased by almost half that number.

Elephants are being slaughtered by the thousands by poachers who then trade their illegal ivory on the international market. The tusks are worked into jewelry and small items which can not be traced back to the country of origin.

We must find a way to control ivory imports and exports and improve the CITES regulatory system in order to keep this species alive. I look forward to studying this problem and working with you to find a solution.

100TH CONGRESS
1ST SESSION

H. R. 2999

To prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 1987

Mr. BEILSON (for himself, Mr. ACKERMAN, Mr. BATES, Mrs. BENTLEY, Mr. BERMAN, Mr. BIAGGI, Mrs. BOXER, Mr. BROWN of California, Mrs. COLLINS, Mr. CONYERS, Mr. DORNAN of California, Mr. EDWARDS of California, Mr. FEIGHAN, Mr. GORDON, Mr. GREGG, Mr. HUGHES, Ms. KAPTUB, Mr. KASTENMEIER, Mr. KOSTMAYER, Mr. LANTOS, Mr. LIPINSKI, Mr. MARTINEZ, Mr. MRAZEK, Mr. NEAL, Mr. OWENS of New York, Mr. PANETTA, Ms. PELOSI, Mr. RODINO, Mr. ROE, Mr. SOLARZ, Mr. TOWNS, Mr. UDALL, Mr. WEISS, and Mr. WILSON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Elephant
5 Protection Act".

1 CONGRESSIONAL DECLARATION OF PURPOSE AND POLICY

2 SEC. 2. (a) DECLARATION OF PURPOSE.—The purpose
3 of this Act is to insure the continued existence of large and
4 healthy populations of all species of elephants and, to this end
5 to—

6 (1) eliminate the role of the United States in cre-
7 ating the world demand for elephant products, includ-
8 ing but not limited to ivory, and

9 (2) encourage other nations to join in a ban on
10 trade in such products.

11 (b) CONGRESSIONAL FINDINGS AND POLICY.—The
12 Congress finds and declares that a drastic decline in popula-
13 tions of elephants has occurred in East Africa, and a gradual
14 but steady decline is taking place throughout most of the
15 other African countries which elephants inhabit, and that the
16 main cause of this decline is the widespread killing of ele-
17 phants for the commercial value of their ivory tusks. Accord-
18 ingly, it is the policy of the United States to—

19 (1) pursue actively through international initia-
20 tives the establishment of effective controls on the kill-
21 ing of elephants;

22 (2) pursue actively a ban on the international
23 trade in elephant products; and

1 (3) provide all appropriate forms of aid to nations
2 wishing to prevent the destruction of elephant habitat
3 and the overexploitation of elephant populations.

4 UNITED STATES INITIATIVES FOR INTERNATIONAL
5 PROTECTION OF ELEPHANTS

6 SEC. 3. In pursuance of the policies set forth in this Act,
7 the President or his delegate shall propose, as soon as possi-
8 ble, to the Convention on International Trade in Endangered
9 Species that all trade in elephant products by member nations
10 be suspended until accurate data demonstrate that large and
11 healthy elephant populations have been reestablished and are
12 biologically stable over large geographic areas.

13 PROHIBITED ACTS

14 SEC. 4. It is unlawful for any person subject to the juris-
15 diction of the United States to—

16 (1) import into the United States or export from
17 the United States any item which such person knows,
18 or in the exercise of due care should know, is an ele-
19 phant product, if such importation or such exportation
20 occurs after the date of the enactment of this Act;

21 (2) possess, deliver, receive, carry, transport, ship,
22 or sell or offer for sale, by any means whatsoever, any
23 item which such person knows, or in the exercise of
24 due care should know, is, or is composed in whole or
25 in part of, an elephant product imported in violation of
26 the provisions of this Act;

1 (3) sell or offer for sale in interstate or foreign
2 commerce any item which such person knows, or in
3 the exercise of due care should know, is an elephant
4 product; or

5 (4) make any false record or render a *false ac-*
6 count of the contents of any shipment transported in
7 interstate commerce and received by such person, if
8 such shipment contains any item which such person
9 knows, or in the exercise of due care should know, is,
10 or is composed in whole or in part of, an elephant
11 product imported in violation of the provisions of this
12 Act.

13 ADMINISTRATIVE PROVISIONS

14 SEC. 5. (a) ADMINISTRATION BY SECRETARY OF THE
15 INTERIOR.—Except as otherwise provided in subsections (e)
16 and (f) of section 6, the Secretary of the Interior (hereinafter
17 in this Act referred to as the "Secretary"), in consultation
18 with the Department of the Treasury and the department in
19 which the Coast Guard is operating, shall administer the pro-
20 visions of this Act. The Secretary may issue such regulations
21 as are necessary to carry out the provisions of this Act.

22 (b) PERMITS.—

23 (1) The Secretary may permit, under such terms
24 and conditions as he may prescribe, any act otherwise
25 prohibited by this Act for scientific purposes or to

1 enhance the propagation or survival of any species of
2 elephant.

3 (2) The Secretary shall publish notice in the Fed-
4 eral Register of each application for a permit which is
5 made under this subsection. Each notice shall invite
6 the submission from interested parties, within thirty
7 days after the date of the notice, written data, views,
8 or arguments with respect to the application. Informa-
9 tion received by the Secretary as a part of any applica-
10 tion shall be available to the public as a matter of
11 public record at every stage of the proceeding.

12 (3) The Secretary may grant any permit under
13 paragraph (1) only if he determines to his satisfaction
14 that such permit—

15 (A) was applied for in good faith,

16 (B) if granted and exercised, will not operate
17 to the disadvantage of any species of elephant,
18 and

19 (C) will be consistent with the purpose and
20 policy set forth in section 2.

21 **PENALTIES AND ENFORCEMENT**

22 **SEC. 6. (a) CIVIL PENALTIES.—**

23 (1) Any person who knowingly violates, or who
24 knowingly commits an act in the course of a commer-
25 cial activity which violates, any provision of this Act,
26 or any provision of any permit issued under section

1 5(b), or of any regulation issued under this Act, may be
2 assessed a civil penalty by the Secretary of not more
3 than \$10,000 for each violation. Any person who oth-
4 erwise violates any provision of this Act, or any permit
5 or regulation issued under this Act, may be assessed a
6 civil penalty by the Secretary of not more than \$1,000
7 for each such violation. No penalty may be assessed
8 under this subsection unless such person is given notice
9 and opportunity for a hearing with respect to such vio-
10 lation. Each violation shall be a separate offense. Any
11 such civil penalty may be remitted or mitigated by the
12 Secretary. Upon any failure to pay a penalty assessed
13 under this subsection, the Secretary may request the
14 Attorney General to institute a civil action in a district
15 court of the United States for any district in which
16 such person is found, resides, or transacts business to
17 collect the penalty and such court shall have jurisdic-
18 tion to hear and decide any such action. The court
19 shall hear such action on the record made before the
20 Secretary and shall sustain his action if it is supported
21 by substantial evidence on the record considered as a
22 whole.

23 (2) Hearings held during proceedings for the as-
24 sessment of civil penalties authorized by paragraph (1)
25 of this subsection shall be conducted in accordance

1 with section 554 of title 5, United States Code. The
2 Secretary may issue subpoenas for the attendance and
3 testimony of witnesses and the production of relevant
4 papers, books, and documents, and administer oaths.
5 Witnesses summoned shall be paid the same fees and
6 mileage that are paid to witnesses in the courts of the
7 United States. In case of contumacy or refusal to obey
8 a subpoena served upon any person pursuant to this
9 paragraph, the district court of the United States for
10 any district in which such person is found or resides or
11 transacts business, upon application by the United
12 States and after notice to such person, shall have juris-
13 diction to issue an order requiring such person to
14 appear and give testimony before the Secretary or to
15 appear and produce documents before the Secretary, or
16 both, and any failure to obey such order of the court
17 may be punished by such court as contempt.

18 (b) CRIMINAL VIOLATIONS.—Any person who willfully
19 commits an act which violates any provision of this Act or of
20 any permit issued under section 5(b) shall, upon conviction,
21 be fined not less than \$5,000 and not more than \$20,000 or
22 imprisoned for not more than one year, or both.

23 (c) DISTRICT COURT JURISDICTION.—The several dis-
24 trict courts of the United States, including the courts enu-
25 merated in section 460 of title 28, United States Code, shall

1 have jurisdiction over any actions arising under this Act. For
2 purposes of this Act, American Samoa shall be included
3 within the judicial district of the District Court of the United
4 States for the District of Hawaii.

5 (d) REWARDS.—Upon the recommendation of the Sec-
6 retary, the Secretary of the Treasury may pay an amount
7 equal to one-half of the civil penalty or fine paid, but not to
8 exceed \$2,500, to any person who furnishes information
9 which leads to a finding of civil violation or a conviction of a
10 criminal violation of any provision of this Act or any regula-
11 tion or permit issued under this Act. Any officer or employee
12 of the United States or of any State or local government who
13 furnishes information or renders service in the performance of
14 his official duties shall not be eligible for payment under this
15 section.

16 (e) ENFORCEMENT.—

17 (1) The provisions of this Act and any regulation
18 or permit issued under this Act shall be enforced by
19 the Secretary, the Secretary of the Treasury, or the
20 Secretary of the Department in which the Coast Guard
21 is operating, or all such Secretaries. Each such Secre-
22 tary may utilize by agreement, with or without reim-
23 bursement, the personnel, services, and facilities of any
24 other Federal agency or any State agency for purposes
25 of enforcing any provision of this Act.

1 (2) The judges of the district courts of the United
2 States and the United States magistrates may, within
3 their respective jurisdictions, upon proper oath or affir-
4 mation showing probable cause, issue such warrants or
5 other process as may be required for enforcement of
6 this Act and any regulation issued under this Act.

7 (3) Any person authorized by the Secretary, the
8 Secretary of the Treasury, or the Secretary of the de-
9 partment in which the Coast Guard is operating, to en-
10 force any provision of this Act may detain for inspec-
11 tion and inspect any package, crate, or other container,
12 including its contents, and all accompanying docu-
13 ments, upon importation or exportation. Such person
14 may make arrests without a warrant for any violation
15 of this Act if he has reasonable grounds to believe that
16 the person to be arrested is committing the violation in
17 his presence or view, and may execute and serve any
18 arrest warrant, search warrant, or other warrant or
19 civil or criminal process issued by any officer or court
20 of competent jurisdiction for enforcement of any provi-
21 sion of this Act. Such person so authorized may search
22 and seize, with a warrant in such a manner and to
23 such extent as is legal under the Constitution. Any
24 item so seized shall be held by any person authorized
25 by the Secretary, the Secretary of the Treasury, or the

1 Secretary of the department in which the Coast Guard
2 is operating pending disposition of civil or criminal pro-
3 ceedings, or the institution of an action in rem for for-
4 feiture of such item pursuant to paragraph (4) of this
5 subsection, except that such Secretary may, in lieu of
6 holding such item, permit the owner or consignee to
7 post a bond or other surety satisfactory to such Secre-
8 tary, but upon forfeiture of any such property to the
9 United States, or the abandonment or waiver of any
10 claim to any such property, it shall be disposed of
11 (other than by sale to the general public) by such Sec-
12 retary in such a manner, consistent with the purposes
13 of this Act, as such Secretary shall by regulation
14 prescribe.

15 (4)(A) Any item possessed, sold, purchased, of-
16 fered for sale, transported, delivered, received, carried,
17 shipped, exported, or imported contrary to the provi-
18 sions of this Act or any permit or regulation issued
19 under this Act shall be subject to forfeiture to the
20 United States.

21 (B) Any vessel, vehicle, aircraft, or other means
22 of transportation used to aid the possessing, selling,
23 purchasing, offering for sale or purchase, transporting,
24 delivering, receiving, carrying, shipping, exporting, or
25 importing of any item in violation of this Act or any

1 permit or regulation issued under this Act shall be sub-
2 ject to forfeiture to the United States upon conviction
3 of a criminal violation pursuant to subsection (b) of this
4 section.

5 (5) All provisions of law relating to the seizure,
6 forfeiture, and condemnation of a vessel for violation of
7 the customs laws, the disposition of such vessel or the
8 proceeds from the sale thereof, and the remission or
9 mitigation of such forfeiture, shall apply to the seizures
10 and forfeitures incurred, or alleged to have been in-
11 curred, under the provisions of this Act, to the extent
12 that such provisions of law are applicable and not in-
13 consistent with the provisions of this Act, except that
14 all powers, rights, and duties conferred or imposed by
15 the customs laws upon any officer or employee of the
16 Department of the Treasury shall, for purposes of this
17 Act, be exercised or performed by the Secretary or by
18 such persons as he may designate.

19 (f) REGULATIONS.—The Secretary, the Secretary of the
20 Treasury, and the Secretary of the department in which the
21 Coast Guard is operating, are authorized to promulgate such
22 regulations as may be appropriate to enforce the provisions of
23 this Act and charge reasonable fees for expenses to the Gov-
24 ernment connected with permits or certificates issued pursu-
25 ant to this Act, including processing applications and reason-

1 able inspections, and with the transfer, board, handling, or
2 storage of items seized and forfeited under this Act. All such
3 fees collected pursuant to this subsection shall be deposited in
4 the Treasury to the credit of the appropriation which is cur-
5 rent and chargeable for the cost of furnishing the services.
6 Appropriated funds may be expended pending reimbursement
7 from parties in interest.

8 (g) CITIZEN SUITS.—

9 (1) Except as provided in paragraph (2) of this
10 subsection any person may commence a civil action on
11 his own behalf—

12 (A) to enjoin any person alleged to be in vio-
13 lation of any provision of this Act or regulation
14 issued under the authority of this Act; or

15 (B) to compel the Secretary, Secretary of the
16 Treasury, or Secretary of the department in
17 which the Coast Guard is operating to apply the
18 prohibitions set forth in or authorized by this Act.

19 The district courts shall have jurisdiction, without
20 regard to the amount in controversy or the citizenship
21 of the parties, to enforce any such provision or regula-
22 tion, as the case may be. In any civil suit commenced
23 under subparagraph (B) the district court shall compel
24 the Secretary, or Secretaries, to apply the prohibition

1 sought if the court finds that the allegation is support-
2 ed by substantial evidence.

3 (2)(A) Any action under this subsection may be
4 brought in the judicial district in which the violation
5 occurs.

6 (B) In any such action under this subsection in
7 which the United States is not a party, the Attorney
8 General, at the request of the Secretary, may inter-
9 vene on behalf of the United States as a matter of
10 right.

11 (3) The court, in issuing any final order in any
12 action brought pursuant to paragraph (1) of this sub-
13 section, may award costs of litigation (including reason-
14 able attorney and expert witness fees) to any party,
15 whenever the court determines such award is appropri-
16 ate.

17 (4) Any injunctive relief granted pursuant to this
18 subsection shall not restrict any right which any person
19 (or class of persons) may have under any statute or
20 common law to seek enforcement of any standard or
21 limitation or to seek any other relief.

22 (h) COORDINATION WITH OTHER LAWS.—Nothing in
23 this Act shall be construed as superseding or limiting in any
24 manner the functions and responsibilities of the Secretary
25 under the Endangered Species Act of 1973 (16 U.S.C. 1531

1 et seq.) or of the Secretary of the Treasury under section 527
2 of the Tariff Act of 1930 (19 U.S.C. 1527) or under any
3 other section of such Act.

4 PREEMPTION

5 SEC. 7. Any State law or regulation which applies with
6 respect to the importation or exportation of elephant products
7 or interstate or foreign commerce involving elephant products
8 is void to the extent that it may effectively--

9 (1) permit what is prohibited by this Act or by
10 any regulation issued under this Act, or

11 (2) prohibit what is authorized pursuant to any
12 permit or any regulation issued under this Act.

13 DEFINITIONS

14 SEC. 8. For purposes of this Act--

15 (1) The term "elephant" means any animal of the
16 species *Loxodonta africana* or *Elephas maximus*.

17 (2) The term "elephant product" means any part
18 of an elephant or any product composed in whole or in
19 part of any part of an elephant.

20 (3) The term "import" means to land on, bring
21 into, or introduce into, or attempt to land on, bring
22 into, or introduce into, any place subject to the juris-
23 diction of the United States, whether or not such land-
24 ing, bringing, or introduction constitutes an importation
25 within the meaning of the customs laws of the United
26 States.

1 (4) The term "interstate or foreign commerce"
2 means any transaction—

3 (A) between any person in any State and any
4 person outside of such State,

5 (B) between persons in any State if the item
6 involved is moving in any place outside of such
7 State,

8 (C) between persons within one foreign
9 country,

10 (D) between persons in two or more foreign
11 countries, or

12 (E) between persons within the United
13 States if the item involved is moving in any place
14 outside of the United States.

15 (5) The term "commercial activity" means any
16 activity of industry or trade, including the buying or
17 selling of commodities and any activity conducted for
18 the purpose of facilitating such buying or selling. Such
19 term does not include exhibition of commodities by mu-
20 seums or similar cultural or historical organizations.

21 (6) The term "person" means any individual, cor-
22 poration, partnership, trust, association, or any other
23 private entity or any officer, employee, agent, depart-
24 ment, or instrumentality of the Federal Government, of

1 any State or political subdivision thereof, or of any
2 foreign government.

3 (7) The term "State" means any State of the
4 United States, the District of Columbia, the Common-
5 wealth of Puerto Rico, or any territory or possession of
6 the United States.

7 (8) The term "United States", when used in a
8 geographical context, includes all States.

May 19, 1988

Summary of H.R. 2999, The Elephant Protection Act
Sponsored by Rep. Anthony Beilenson (D-CA)

- Sec. 1:** Designates short title, "The Elephant Protection Act"
- Sec. 2:** (a) Declaration of Purpose--to insure the continued existence of large and healthy populations of all species of elephants by eliminating the U.S. role in the world demand for elephant products and by encouraging other nations to join in such a ban;
 (b) Congressional Findings and Policy--finds and declares a drastic decline in populations of elephants due to widespread poaching for ivory, and establishes a policy of actively pursuing a ban on ivory trade and aiding nations wishing to prevent this decline.
- Sec. 3:** Directs the President to propose to CITES that all trade in elephant products be suspended by the Parties until data demonstrate that large and healthy elephant populations have been reestablished.
- Sec. 4:** PROHIBITS: (1) import into or export from the U.S. of any elephant product; (2) possession, shipment, receipt, or sale of elephant products; (3) sale in interstate or foreign commerce of any elephant product; (4) making any false record of the contents of any shipment if such shipment contains any elephant product.
- Sec. 5:** Delegates administration of the act to the Secretary of the Interior (in consultation with the Department of the Treasury and the Coast Guard); gives Secretary authority to exempt from the act, and grant a permit for "any act otherwise prohibited by this Act for scientific purposes or to enhance the propagation of the elephant species", and establishes a procedure for inviting public commentary on each application for such permits.
- Sec. 6:** Sets civil penalties at not more than \$10,000; criminal penalties at \$5,000 to \$20,000 and/or one year in prison; rewards at one-half the civil or criminal fine paid up to \$2,500. Subjects to forfeiture any item prohibited by the act, and any vehicle used to transport such item. Also provides for citizens suits to enjoin any person alleged to be in violation of the act, and to compel the Secretary to apply the prohibitions set forth by the Act.
- Sec. 7:** Preempts state laws which apply to elephant products.
- Sec. 8:** Defines the term "elephant" as the species *Loxodonta africana* or *Elephas maximus*; "elephant product" as any part of an elephant or any product composed in whole or in part of any part of an elephant; also defines other relevant terms.



U.S. Department of
Transportation

General Counsel

400 Seventh St. S.W.
Washington, D.C. 20590

JUL 15 1988

The Honorable Walter B. Jones
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Transportation concerning H.R. 2999, a bill

"To prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes."

The Department generally defers to the Department of the Interior on this legislation but would like to comment on the sections that affect us. The Department objects to some of the provisions on enforcement in section 6 of the bill. Also, there are some technical difficulties with language in sections 4, 5, and 6.

In general, the use of "and the Secretary of the department in which the Coast Guard is operating" should be deleted everywhere that it appears. Section 6(f) (page 11, lines 20-2) should not authorize the department in which the Coast Guard is operating to promulgate regulations. This is more appropriately left to the Secretary of the Interior or the Secretary of the Treasury. Other references to the Coast Guard are unnecessary. The Coast Guard already has full authority to enforce Federal law at sea under 14 U.S.C. 89.

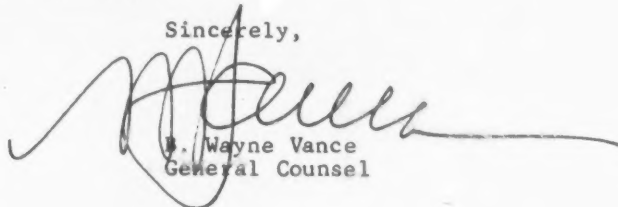
Section 6(e)(3) (page 9, lines 21-4, in the print of July 23, 1987) provides that persons authorized by a responsible Secretary "may search and seize, with a warrant in such a manner and to such extent as is legal under the Constitution." This might be read, by way of negative implication, to say that a search and seizure without a warrant is never allowed. Such searches and seizures are Constitutional under proper circumstances, and are quite necessary when the Coast Guard is interdicting contraband on the high seas. It would be better not to attempt to specify arrest, search, and seizure authority in section 6. This is a highly complex area of Constitutional law. The rulings of the courts, dealing with specific cases and circumstances, should be our guide in this area.

Section 6(g)(1)(B) (page 12, lines 15-18) provides for citizen suits, against the Secretary of the department in which the Coast Guard is operating (among others) "to apply the prohibitions set forth in or authorized by this Act." This is completely inappropriate. It is an open-ended invitation to exhaustive litigation. Worse, it would put the Federal courts in the improper role of deciding when and where the scarce resources of the Coast Guard (among others) should be allocated. As Congress has recognized, "The legal responsibilities of the Coast Guard have expanded enormously over the past 20 years as the result of the passage of a series of maritime-related laws." H.R. Rep. No. 154, 100th Cong., 1st Sess. 9 (1987). Enforcement of these other laws, and traditional missions such as search and rescue and military readiness, are also very important. The Elephant Protection Act, worthy though its purpose may be, should not invite litigation to judicially compel a special allocation of resources to that one particular law enforcement mission. The Supreme Court has recognized that this is not a matter for the courts. Please see, most recently, Heckler v. Chaney, 105 S.Ct. 1649 (1985). Allocation of resources is a matter for administrative discretion, and for review by Congressional oversight.

Section 4 makes unlawful certain acts. However, section 5 permits some of those acts. The first line of section 4 (page 3, line 14) should say "Except as provided in section 5, it is unlawful...." Section 6(a)(1) (page 5, lines 23-4) creates civil penalties against a person who "knowingly violates" the bill, but section 6(b) (page 7, lines 18-9) creates criminal penalties against a person who "willfully commits an act" which violates the bill. If a distinction between "knowingly" and "willfully" is intended, it should be clarified in some way.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this report for the consideration of the committee.

Sincerely,



J. Wayne Vance
General Counsel

[COMMITTEE PRINT]

JUNE 7, 1988

100TH CONGRESS
2D SESSION**H. R.**

To perpetuate large and healthy populations of African elephants.

IN THE HOUSE OF REPRESENTATIVES

JUNE , 1988

Mr. introduced the following bill

A BILL

To perpetuate large and healthy populations of African elephants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "African Elephant Con-
5 servation Act".

TITLE I

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) PURPOSE.—The purpose of this Act is to perpetuate large and healthy populations of African elephants.

(b) FINDINGS.—The Congress finds that—

(1) Elephant populations in Africa have declined by an estimated 30 percent since 1980.

(2) The high level of illegal ivory trade is a major cause of this decline and threatens the continued existence of the African elephant.

(3) The African elephant is listed as threatened under the Endangered Species Act and is likely to become endangered if this decline is not reversed.

(4) In response to the significant illegal poaching of African elephants, the parties to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) established a quota and marking system designed to curtail the illegal trade and to encourage African nations to manage and conserve their elephant populations.

(5) This system, called the CITES Ivory Control System, entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.

1 (6) Although some African countries have effective elephant conservation programs, many do not have
2 sufficient resources to properly manage and conserve
3 their elephant populations.
4

5 (7) The United States, as a party to CITES and
6 one of the world's largest markets for finished ivory
7 and other products from the African elephant, shares
8 responsibility for supporting and implementing measures to stop the illegal trade in ivory and to provide for
9 the conservation of the elephant.
10

11 (8) Those that purchase ivory and other elephant
12 products should bear a portion of the costs associated
13 with the management of elephant populations and revenues generated through a tax on elephant products
14 should be used to fund elephant conservation programs.
15

16 (c) POLICY.—It is the policy of the United States to—

17 (1) Assist in the conservation of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat.
18
19

20 (2) Provide financial resources for these programs
21 proportionate to the United States share of trade in African elephant products.
22

23 SEC. 102. DEFINITIONS.

24 (a) The term "elephant" means any animal of the species *Loxodonta africana*.
25

1 (b) The term "raw elephant ivory" means any African
2 elephant ivory to which no process other than polishing has
3 been applied.

4 (c) The term "processed ivory product" means any ele-
5 phant ivory other than raw elephant ivory.

6 (d) The term "elephant skin" means any part of raw or
7 cured African elephant hide or skin.

8 (e) The term "elephant skin product" means any item
9 which consists in whole or in part of raw or cured African
10 elephant hide or skin howsoever tanned, altered, sewn or
11 combined with other materials.

12 (f) The term "ivory producing nations" means any Afri-
13 can nation that is party to CITES or that participates in the
14 CITES Ivory Control System and has entire or partial popu-
15 lations of African elephants within its territory.

16 **SEC. 103. AFRICAN WILDLIFE CONSERVATION COMMITTEE.**

17 (A) **GENERAL RESPONSIBILITIES AND DUTIES.**—The
18 Secretary, acting through the Director of the Fish and Wild-
19 life Service, shall establish the African Wildlife Conservation
20 Committee (hereinafter referred to as the Committee) within
21 ninety days after the date of enactment of this Act. The
22 Committee shall—

23 (1) review and provide written recommendations
24 on proposals submitted to the Secretary for elephant
25 conservation projects as provided for in section 104(b);

1 (2) to the extent possible, rank all project propos-
2 als submitted to the Secretary in order of importance
3 as provided for in section 104(b); and

4 (3) assist the Secretary in the preparation of the
5 annual report to Congress regarding the Elephant Con-
6 servation Fund and the status of the African elephant
7 as provided for in section 106.

8 (b) **MEMBERSHIP OF THE COMMITTEE.**—The Secre-
9 tary, acting through the Director of the Fish and Wildlife
10 Service, shall appoint 6 members to serve on the Committee.
11 The members of the Committee must be knowledgeable and
12 experienced in African elephant conservation, biology or
13 international wildlife trade.

14 (c) **COMPENSATION AND EXPENSES.**—The Secretary
15 shall provide administrative and support services to the Com-
16 mittee members from the administrative funds available
17 under section 105 of this Act. Committee members shall not
18 receive any compensation or expenses for serving on the
19 Committee. The provisions of the Act of October 6, 1972 (5
20 App. I, U.S.C. 1-15), shall not apply to the African Wildlife
21 Conservation Committee established under this section.

22 **SEC. 104. ELEPHANT CONSERVATION PROJECTS.**

23 (a) **PROJECT PROPOSAL.**—Any African government
24 agency responsible for elephant conservation and protection,
25 the CITES Secretariat or any organization or qualified indi-

1 vidual with experience in elephant conservation may submit
2 to the Secretary a proposal for conducting research upon or
3 conserving or managing elephant populations. Each proposal
4 shall contain:

5 (1) the name of the organization responsible for
6 conducting the project;

7 (2) a succinct statement of the need for and pur-
8 poses of the project;

9 (3) a description of the qualifications of the indi-
10 viduals who will be conducting the project;

11 (4) an estimate of the funds and time required to
12 complete the project;

13 (5) evidence of the support of the governmental
14 entities for the conduct of the project where such sup-
15 port may be important for the success of the project;
16 and

17 (6) any other information the Secretary deter-
18 mines to be necessary or appropriate for evaluating the
19 eligibility of the project for funding under this Act.

20 (b) PROJECT REVIEW.—(1) Each proposal submitted to
21 the Secretary under this section shall be reviewed by the
22 African Conservation Advisory Committee which shall advise
23 the Secretary on whether the proposal will directly benefit
24 the African elephant populations of one or more elephant
25 ivory producing nations and is consistent with the criteria in

1 subsection (d) of this section. The Committee shall provide
2 the Secretary with its review and recommendations within
3 three months of receiving the proposal from the Secretary.

4 (2) Where possible, the Committee shall provide to the
5 Secretary a ranking in order of importance of the projects
6 which, in the Committee's judgment, satisfy the requirements
7 of this section and the purpose of this Act.

8 (c) PROJECT APPROVAL.—The Secretary shall review
9 each proposal to determine if it meets the criteria under sub-
10 section (d) and otherwise merits funding under this Act. In
11 deciding if the project warrants funding, the Secretary shall
12 take into account the recommendations of the Committee.
13 Within six months after receiving a project under this sec-
14 tion, the Secretary shall approve or disapprove of the propos-
15 al and shall provide written notification of the decision to the
16 project applicant and to the country within which the project
17 may be conducted.

18 (d) CRITERIA FOR APPROVAL.—Each proposal funded
19 under this Act shall aid African ivory producing nations in
20 developing or enhancing elephant conservation programs
21 by—

22 (1) providing reasonable and sound scientific infor-
23 mation on habitat condition and carrying capacity, total
24 elephant numbers and population trends, and annual
25 reproduction and mortality in a usable form;

1 (2) aiding efforts to ensure any taking of African
2 elephants is effectively controlled and monitored;

3 (3) aiding African elephant antipoaching activities;
4 or

5 (4) implementing long-term conservation programs
6 to provide for healthy, sustainable elephant populations
7 over time.

8 (e) PROJECT REPORTING.—Each entity which receives
9 funds for an approved project under this Act shall submit an
10 annual report to the Fish and Wildlife Service, and such re-
11 ports shall include all relevant statistics concerning the ele-
12 phant populations in the affected country and other necessary
13 information to evaluate the progress and success of the
14 project.

15 SEC. 105. ELEPHANT CONSERVATION TRUST FUND.

16 (a) FUNDING SOURCES.—The Secretary shall deposit
17 into the Elephant Conservation Trust Fund established by
18 section 9511 of the Internal Revenue Code of 1986, as
19 amended, the following funds—

20 (1) Amounts that may be appropriated or credited
21 to the Fund under section 9511 or 9602(b) of the In-
22 ternal Revenue Code of 1986, as amended.

23 (2) All civil penalties that may be recovered pur-
24 suant to section 202 of this Act.

1 (3) Amounts that may be appropriated pursuant to
2 the authorization in section 109 of this Act.

3 (b) USES OF THE FUND.—(1) An amount equal to all
4 revenues accruing each fiscal year from the tax imposed by
5 title III is authorized to be appropriated and made available
6 until expended for elephant conservation projects and activi-
7 ties approved by the Secretary under section 104, above.

8 (2) An amount not to exceed 6 percent of the annual
9 revenues of the Fund is authorized to be appropriated for any
10 Federal agencies responsible for administrating such fund and
11 collecting the tax revenues under title III of this Act. Such
12 agencies shall include, but are not limited to, the United
13 States Fish and Wildlife Service.

14 SEC. 106. ANNUAL REPORTS.

15 The Secretary shall submit an annual report to Con-
16 gress regarding the African Wildlife Conservation Fund and
17 the Status of the African elephant. Such report shall be pre-
18 pared in consultation with the African Elephant Conservation
19 Advisory Committee and such other entities as it deems ap-
20 propriate. The report shall include the following—

- 21 (a) the amounts collected under the Fund;
22 (b) administrative costs associated with the Fund;
23 (c) the expenditures made under the Fund;
24 (d) a summary of the types and evaluation of the
25 projects funded; and

1 (e) an evaluation of the current African elephant
2 population and whether the CITES Ivory Control
3 System is functioning effectively to control the illegal
4 trade in ivory.

5 SEC. 107. LICENSING.

6 Section 9(d) of the Endangered Species Act of 1973,
7 (16 U.S.C. 1538(d)) governing the import and exports of fish
8 and wildlife, is amended by—

9 (a) inserting in the first sentence of paragraph (2)
10 after phrase "paragraph (1)" the follow "or a li-
11 cense under paragraph (3)";

12 (b) inserting the following new paragraph (3):
13 "(3) Any person subject to the jurisdiction of the United
14 States engaged in the commercial import of raw or processed
15 elephant ivory into or out of the United States, regardless of
16 the value of such ivory, must have a license granting permis-
17 sion of such import. The Secretary of Interior may assess
18 reasonable fees for such licenses to reflect the administrative
19 costs of such licensing and the costs to the Secretary associ-
20 ated with the enforcement and implementation of the CITES
21 Ivory Control System.", and

22 (c) redesignating paragraph (3) as paragraph (4).

23 SEC. 108. COORDINATION WITH OTHER LAWS.

24 Except as provided under section 107, nothing in this
25 Act shall construed as superseding or limiting in any manner

1 the functions and responsibilities of the Secretary of Interior
2 under the Endangered Species Act of 1973 (16 U.S.C.
3 1531).

4 SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

5 There are authorized to be appropriated not to exceed
6 \$5,000,000 for each of fiscal years 1989, 1990, and 1991 for
7 the activities authorized by this Act.

8 **TITLE II**

9 SEC. 201. MORATORIA ON IMPORTATION OF AFRICAN ELE-
10 PHANT PRODUCTS.

11 (a) CALL FOR INFORMATION.—Upon enactment of this
12 Act, the Secretary shall issue a call for information on the
13 elephant conservation programs of each African ivory pro-
14 ducing nation by issuing a notice in the Federal Register and
15 by written request to each African ivory producing nation.

16 (b) REVIEW OF CONSERVATION PROGRAMS.—The
17 Secretary shall review the elephant conservation program of
18 each African country with elephant populations to determine
19 the adequacy of those programs based upon the criteria in
20 subsection (c). In conducting the review, the Secretary shall
21 consult with organizations and individuals with expertise in
22 African elephant conservation.

23 (c) MORATORIA ON PRODUCERS.—Within one year
24 after enactment of this Act, the Secretary shall, after provid-
25 ing notice and an opportunity for public comment, impose a

1 moratorium on the importation of any raw or processed ele-
2 phant ivory from any African ivory producing country if—

3 (1) the Secretary determines that such nation has
4 no effective program for the conservation of elephants
5 based upon a finding that:

6 (A) such conservation program is not based
7 upon sound scientific information on habitat condi-
8 tion and carrying capacity, total elephant numbers
9 and population trends and annual reproduction
10 and mortality;

11 (B) the taking of elephants in such nation is
12 not effectively controlled and monitored;

13 (C) such nation has not submitted its raw
14 ivory export quota to the CITES Secretariat by
15 January 1 of the quota year;

16 (D) its raw ivory export quota is not deter-
17 mined on the basis of information referred to in
18 subparagraph (A) of this subsection, or does not
19 take into consideration poached and domestically
20 consumed raw ivory; or

21 (E) such nation has exported amounts of raw
22 ivory which substantially exceed its raw ivory
23 export quota as provided for under the CITES
24 Ivory Control System, or

1 (2) the Secretary has not, without just cause, re-
2 ceived sufficient information from the African country
3 on which to make a determination of whether such
4 *nation has an effective program* for the conservation of
5 elephants.

6 (d) MORATORIA ON INTERMEDIARIES.—The Secretary
7 shall impose a moratorium on the import of any elephant
8 product from any intermediary country if the Secretary deter-
9 mines that such intermediary country—

10 (1) is importing raw or processed elephant ivory
11 from any nation subject to a moratorium under subsec-
12 tion (c) after one year from the imposition of the mora-
13 torium; or

14 (2) is not in substantial compliance with the
15 CITES Ivory Control System, as determined by the
16 Secretary.

17 (e) SUSPENSION OF MORATORIUM.—The Secretary
18 shall suspend any moratorium imposed under subsection (c)
19 or (d) if, after notice and public comment, the Secretary de-
20 termines that the reasons for imposing the moratorium are no
21 longer valid.

22 (f) EXPIRATION.—Any moratorium imposed under sub-
23 section (c) or (d) shall automatically expire four years after
24 the date on which it was imposed unless, prior to the expira-
25 tion of such four-year period, the Secretary, after notice in

1 the Federal Register and opportunity for public comment
2 thereon, makes a finding that the requirements for such a
3 moratorium continue to be met and the moratorium should be
4 extended.

5 (g) PETITION.—Any person may at any time submit a
6 petition in writing requesting that the Secretary impose or
7 revoke a moratorium under this section. The petition shall
8 include whatever information may be necessary to support
9 the petition. The Secretary shall publish a notice in the Fed-
10 eral Register of the receipt of the petition and provide an
11 opportunity for the public to comment upon it. The Secretary
12 shall rule on a petition no later than ninety days after the
13 close of the public comment period on it.

14 (h) SAVINGS PROVISION.—The authority conferred by
15 this section is in addition to any authority the Secretary of
16 the Interior has with respect to controlling the trade in ele-
17 phant products under the Endangered Species Act, and noth-
18 ing herein shall derogate or otherwise interfere with his au-
19 thority under that Act.

20 SEC. 202. PENALTIES AND ENFORCEMENT.

21 (a) CRIMINAL VIOLATIONS.—Any person who know-
22 ingly imports any elephant product from a country for which
23 a moratorium is in effect pursuant to section 201 shall, upon
24 conviction, be fined not less than \$12,000 and not more than
25 \$25,000 or imprisoned for not more than one year, or both.

1 (b) CIVIL VIOLATIONS.—Any person who imports any
2 elephant product from a country for which a moratorium is in
3 effect pursuant to section 201 may be assessed a civil penalty
4 by the Secretary of not more than \$50,000 for each such
5 violation. Each violation shall be a separate offense.

6 (c) USE OF PENALTIES.—Penalties collected under this
7 title may be used to pay rewards pursuant to subsection (d),
8 and funds not so utilized shall be deposited into the African
9 Wildlife Conservation Trust Fund established by section
10 9511 of the Internal Revenue Code, as amended.

11 (d) REWARDS.—Upon the recommendation of the Sec-
12 retary, the Secretary of the Treasury may pay an amount up
13 to one-half of the criminal or civil penalty or fine paid, but
14 not to exceed \$25,000, to any person who furnishes informa-
15 tion which leads to a civil penalty or a criminal conviction
16 under this Act. Any officer or employee of the United States
17 or of any State or local government who furnishes informa-
18 tion or renders service in the performance of his official duties
19 shall not be eligible for payment under this section.

1 **TITLE III—AMENDMENTS OF IN-**
2 **TERNAL REVENUE CODE OF**
3 **1986**

4 **SEC. 301. IMPOSITION OF EXCISE TAX ON ELEPHANT IVORY,**
5 **ETC.**

6 (a) **IN GENERAL.**—Chapter 36 of the Internal Revenue
7 Code of 1986 (relating to certain other excise taxes) is
8 amended by inserting after subchapter A the following new
9 subchapter:

10 **“Subchapter B—Certain Elephant Products**

“Sec. 4471. Imposition of tax.

“Sec. 4472. Definitions and special rules.

11 **“SEC. 4471. IMPOSITION OF TAX.**

12 **“(a) GENERAL RULE.**—There is hereby imposed a tax
13 on any of the following articles entered into the United
14 States for consumption, use or warehousing—

15 **“(1) Any elephant ivory.**

16 **“(2) Any elephant skin or product thereof.**

17 **“(b) RATE OF TAX.**—The rate of the tax imposed by
18 subsection (a) shall be—

19 **“(1) \$5 per pound of raw elephant ivory,**

20 **“(2) \$10 per pound of processed elephant ivory,**

21 **and**

22 **“(3) \$2 per square foot of any elephant skin or**
23 **product thereof.**

1 “(c) LIABILITY FOR TAX.—The tax imposed by sub-
2 section (a) shall be paid by the person entering the article for
3 consumption, use, or warehousing.

4 “(d) EXCEPTION FOR LIVE ELEPHANTS.—The tax im-
5 posed by subsection (a) shall not apply to any article entered
6 into the United States as part of a live elephant.

7 “SEC. 4472. DEFINITIONS AND SPECIAL RULES.

8 “(a) DEFINITIONS.—For purposes of this chapter—

9 “(1) ELEPHANT IVORY.—

10 “(A) RAW ELEPHANT IVORY.—The term
11 ‘raw elephant ivory’ means any elephant ivory to
12 which no process other than polishing has been
13 applied.

14 “(B) PROCESSED ELEPHANT IVORY.—The
15 term ‘processed elephant ivory’ means any ele-
16 phant ivory other than raw elephant ivory.

17 “(2) UNITED STATES.—The term ‘United States’
18 has the meaning given such term by section 4612(a)(4).

19 “(b) SPECIAL RULES.—

20 “(1) FRACTIONS OF A POUND, ETC.—In the case
21 of a fraction of a pound or square foot, the tax imposed
22 by section 4471 shall be the same fraction of the
23 amount of such tax imposed on a whole pound or
24 square foot, as the case may be.

1 “(2) DISPOSITIONS OF REVENUES FROM PUERTO
2 RICO AND THE VIRGIN ISLANDS.—The provisions of
3 subsections (a)(3) and (b)(3) of section 7652 shall not
4 apply to any tax imposed by section 4471.”

5 (b) CLERICAL AMENDMENT.—The table of subchapters
6 for chapter 36 of such Code is amended by inserting after the
7 item relating to subchapter A the following new item:

 “SUBCHAPTER B. Certain elephant products.”

8 (c) EFFECTIVE DATE.—The amendments made by this
9 section shall take effect on the first day of the first calendar
10 month which begins more than thirty days after the date of
11 the enactment of this Act.

12 SEC. 302. ELEPHANT CONSERVATION TRUST FUND.

13 (a) IN GENERAL.—Subchapter a of chapter 98 of the
14 Internal Revenue Code of 1986 (relating to trust fund code)
15 is amended by adding at the end thereof the following new
16 section:

17 “SEC. 9511. ELEPHANT CONSERVATION TRUST FUND.

18 “(a) CREATION OF TRUST FUND.—There is established
19 in the Treasury of the United States a trust fund to be known
20 as the ‘Elephant Conservation Trust Fund’, consisting of
21 such amounts as may be appropriated or credited to such
22 Trust Fund as provided in this section or section 9602(b).

23 “(b) TRANSFERS TO TRUST FUND.—There are hereby
24 appropriated to the Elephant Conservation Trust Fund
25 amounts equivalent to the taxes received in the Treasury

1 under section 4471 (relating to tax on certain elephant
2 products).

3 “(c) EXPENDITURES.—Amounts in the Elephant Con-
4 servation Trust Fund shall be available, as provided in appro-
5 priation Acts, only for purposes of making expenditures to
6 carry out title I of the African Elephant Conservation Act (as
7 in effect on the date of enactment of this section).

8 “(d) BORROWING AUTHORITY.—

9 “(1) IN GENERAL.—There are authorized to be
10 appropriated to the Elephant Conservation Trust Fund,
11 as repayable advances, such sums as may be necessary
12 to carry out the purposes of such Trust Fund.

13 “(2) LIMITATION ON AMOUNT OUTSTANDING.—
14 The maximum aggregate amount of repayable ad-
15 vances to the Elephant Conservation Trust Fund
16 which is outstanding at any one time shall not exceed
17 \$6,000,000.

18 “(3) REPAYMENT OF ADVANCES.—

19 “(A) IN GENERAL.—Advances made to the
20 Elephant Conservation Trust Fund shall be
21 repaid, and interest on such advances shall be
22 paid, to the general fund of the Treasury when
23 the Secretary determines that moneys are avail-
24 able for such purposes in such Fund.

1 “(B) FINAL REPAYMENT.—No advances
2 shall be made to the Elephant Conservation Trust
3 Fund after , and all advances to
4 such Fund shall be repaid on or before such date.

5 “(C) RATE OF INTEREST.—Interest on ad-
6 vances made pursuant to this subsection shall be
7 determined in accordance with section
8 9509(d)(3)(C).”.

9 (b) CLERICAL AMENDMENT.—The table of sections for
10 such subchapter A is amended by adding at the end thereof
11 the following new item:

“Sec. 9511. Elephant Conservation Trust Fund.”

Summary of Committee Print

TITLE I

Section 101. CONGRESSIONAL DECLARATION OF PURPOSE

This section states the Congressional purpose, findings, and policy. It notes that

- African Elephant populations have declined significantly in recent years,
- the illegal ivory trade threatens the continued existence of those populations,
- an international system has been established to control that trade through an international agreement,
- many African countries do not have sufficient resources to conserve their elephant populations, and
- the U.S. is one of the world's largest markets for ivory products, and shares the responsibility for supporting measures to stop the illegal trade, including financial support for the management of elephant populations.

Section 102. DEFINITIONS

This section contains definitions of terms used in the Act. Its definition of "elephant" limits the bill's scope to African elephants.

Section 103. AFRICAN WILDLIFE CONSERVATION COMMITTEE

This section establishes an advisory committee of experts on African wildlife conservation to evaluate elephant conservation proposals for which funding is sought pursuant to section 104.

Section 104. ELEPHANT CONSERVATION PROJECTS

This section authorizes the Secretary of the Interior to approve qualified elephant conservation projects and establishes criteria to determine which elephant conservation projects should be funded under this act. It provides that they must provide sound scientific information on the status of elephant populations or habitat, aid anti-poaching activities, or otherwise implement elephant conservation measures. It further requires that annual reports be submitted to the U.S. Fish and Wildlife Service on projects undertaken pursuant to this Act.

Section 105. ELEPHANT CONSERVATION TRUST FUND

This section provides that the following funds will be deposited into the Elephant Conservation Trust Fund established in title III: taxes on imports of elephant ivory, civil penalties for violations of this Act, and funds appropriated by Congress. It also provides that the fund may be used for elephant conservation projects approved pursuant to section 104, and for the administration of the fund by the federal government.

Section 106. ANNUAL REPORTS

This section requires the Fish and Wildlife Service to report annually to Congress on the status of the African elephant, on the elephant conservation projects funded under this legislation, and on the extent to which the international ivory control system is functioning effectively to control the illegal ivory trade.

Section 107. LICENSING

This section would require that all importers of ivory into the U.S. must be licensed by the U.S. Fish and Wildlife Service.

Section 108. COORDINATION WITH OTHER LAWS

This section provides that nothing in this Act shall limit the responsibilities of the Secretary of the Interior under the Endangered Species Act.

Section 109. AUTHORIZATION OF APPROPRIATIONS

This section authorizes the appropriation of \$5 million annually for elephant conservation activities authorized by this Act.

TITLE II. SELECTIVE IMPORT BAN

Section 201. MORATORIA ON IMPORTATION OF AFRICAN ELEPHANT PRODUCTS

This section requires the U.S. Fish and Wildlife Service to solicit information on the elephant conservation programs of all African ivory producing nations. It further requires the Service to review that information and to identify those countries that do not have an effective program for the management of elephants. That determination would be based on 5 criteria established in this section. The importation of ivory from those identified nations would be banned.

This section would also ban the importation of ivory from intermediary countries that import ivory from the nations identified by the Fish and Wildlife Service as not having effective elephant management programs. The ban on ivory from the intermediary countries would take effect one year after the date of the ban on the ivory producing country.

This section also establishes a system whereby individuals can petition the Fish and Wildlife Service to ban the importation of ivory from individual countries, and requires that the Service take prompt action on such petitions.

Section 202. VIOLATIONS

This section delineates the civil and criminal penalties for violations of this Act and provides that penalties collected may be used to pay rewards to individuals who furnish information that leads to a civil violation or a conviction. Penalties that are not used for rewards would be used for elephant conservation in African countries.

Title III. AMENDMENTS TO INTERNAL REVENUE CODE**Section 301. IMPOSITION OF EXCISE TAX ON ELEPHANT IVORY**

This section would impose a tax of \$5/lb on unworked elephant ivory, \$10/lb on worked elephant ivory, and \$2 per square foot on elephant skins imported into the U.S.

Section 302. ELEPHANT CONSERVATION TRUST FUND

This section would establish a trust fund into which the import tax on elephant products would be deposited. The fund would be available for expenditures on elephant conservation programs in African countries, as provided in section 104. This section also provides for appropriations into the trust fund.

Elephant HearingQuestions for the Fish and Wildlife Service

1. The legislation drafted by Committee staff requires you to evaluate the conservation programs of the African countries, and ban ivory imports from those that are deemed to be ineffective.
- a. Don't you already have authority to do this under the Endangered Species Act, since the African elephant is listed as "threatened", and if so, why do we need to pass this legislation?
- b. Do you anticipate that you will be able to legally establish sufficient evidence to institute such a ban, based on the criteria in the bill?
2. The World Wildlife Fund has notified the Committee that from 1983 to 1985 the Fish and Wildlife Service allowed several illegal shipments of ivory into the U.S., including shipments from Zaire, which had an export ban in place; Angola, which was not a member of CITES; and India, whose elephants are "endangered", making the importation of them illegal. Are these allegations correct, and if they are, what steps has the Service taken to ensure that the illegal shipments are halted?
3. The World Wildlife Fund has supplied the Subcommittee with a comparison of U.S. imports of tusks in 1986 with the authorized exports from African countries, under the CITES ivory control system. According to that information, the U.S. imported ivory in cases in which the export was not authorized by the following countries: the Central African Republic, Ethiopia, Liberia, the Sudan, South Africa and Zaire. What is the explanation for our lack of compliance with that system, and what action has been taken to ensure that we have come into compliance?
4. The legislation drafted by Committee staff would ban imports of ivory from intermediary countries that accept ivory from African countries that we have identified as not having effective elephant conservation programs. How will we know whether Hong Kong, for example, is importing ivory from one of those countries?
5. You have recently banned ivory imports from Burundi and from nations that accept ivory from Burundi, after that nation had been identified as a major source of illegal ivory.
 - a. What has been the impact of that action on the ivory trade?
 - b. Why have you concluded that you do not have the authority to take similar action against other African nations that are not adequately controlling illegal trade in ivory?
6. Dr. Lieberman notes in her testimony that Hong Kong does not know the origin of most of the ivory it imports and reexports. If that is true, wouldn't a ban on selected African countries - as proposed in the Committee Print - be meaningless?

QUESTIONS FOR THE PANELMagnitude of poaching threat

1. At the hearing this Committee held in 1979, there appeared to be some dispute over the relative threat to the African elephant posed by poaching, compared to drought, disease, and competition for land use arising from human population growth. I understand that there is now a general agreement that poaching for ivory has become the most immediate threat. Does anyone disagree?
2. Dr. Hamilton has reported that there has been a rapid overall drop in the mean weight of elephant tusks entering world trade. The implication is that smaller and younger elephants are being killed for ivory under conditions of severe over-exploitation. Does anyone dispute that assertion?

Total ban on intermediary countries

3. There has been some discussion of a ban on imports of ivory from intermediary countries, such as Hong Kong or Japan, where unworked ivory is imported, carved and reexported as finished products. Under such a ban, it is argued that segments of the Hong Kong ivory carving industry would establish themselves within the African countries, and that the revenue generated by the industry would remain in Africa, where it could be used for elephant conservation.
 - a. Is this scenario realistic, and if not, why not?
 - b. How long would it take for carving industries to establish themselves in African countries?
 - c. Some have suggested that if ivory imports were banned from countries, then ivory would be sent from Africa to Hong Kong, carved there, sent back to Africa, and then reexported to the U.S. Is that scenario likely?
 - d. The U.S. reportedly imports approximately 10% of the finished ivory products produced each year. Is that a large enough percentage of the trade to entice the Far Eastern carving industry to establish itself in Africa?
 - e. Are there any other comments about the advantages and disadvantages of a ban on imports from intermediary countries?

Tax on ivory

4. The legislation developed by Committee staff would impose a tax on ivory imports and direct that the revenue be used for elephant conservation and anti-poaching efforts in Africa. The concept of the tax grew from the acknowledgment that:
 - the world market for ivory is not likely to disappear,
 - that poaching pressure will continue to be strong,
 - that most African nations are not able to dedicate sufficient resources to control poaching, and
 - that we cannot expect African nations in their present economic condition to assume the total financial responsibility for preserving this resource for the rest of the world.

Dr. Lieberman and Dr. Hamilton oppose the tax. The concern is that it would encourage African countries to export more ivory to the U.S. in anticipation of receiving the tax revenues and that it would allow ivory merchants here to argue that the purchase of ivory will contribute to elephant conservation.

- a. Does anyone else have a reaction to the concept of a tax, or to the concerns it has generated?
- b. Mr. Western suggests that a tax would have to raise a minimum of \$10 million to effectively contribute to elephant conservation efforts. Does everyone share that view?
- c. Mr. Western suggests that the tax should be raised to \$80 per pound. Is that high enough to reduce the demand for ivory? Should the tax be set high enough to reduce the demand?
- d. Does everyone agree that African nations need additional revenues to control ivory poaching? Are there any suggestions, other than a tax, on how those revenues can be generated?

Temporary ban on ivory imports

5. Cynthia Moss, reknowned for her research on elephants in Africa, says she "would like to see a temporary moratorium on buying ivory by the American market - until the time comes when one can be sure that the tusk is either from an elephant killed legally, or one that has died of natural causes". Does anyone have a reaction to this suggestion?

U.S. ability to recognize illegal ivory imports

6. The legislation drafted by Committee staff would ban the importation of ivory from nations without effective elephant conservation programs. This scheme assumes that we can determine, with some degree of confidence, the country of origin of the worked ivory that enters the U.S. Is that a realistic assumption?
7. I understand that one trade route for ivory poached in Africa is be the following. It is shipped to the United Arab Emirates, cut into pieces, and worked. Then it is shipped to Hong Kong where it is cut into smaller pieces and carved into finished items. It is then shipped to the U.S. Is it realistic to believe that we can differentiate between ivory that comes to us via this route and ivory that is legally obtained?

African wildlife programs

8. This question is directed at those of you who are familiar with the wildlife management programs of the African countries. The legislation drafted by Committee staff would ban the importation of ivory from nations without effective elephant conservation programs. How many nations with significant populations of elephants are likely to fit into that category?

CITES ivory control system

9. Under the CITES ivory control system, African nations established quotas that would have allowed for the exportation of 98,000 tusks in 1987. Does such a quota provide for a sustainable harvest of elephants, given the total population of 760,000?

I understand that confiscated ivory can be sold by a country in addition to its quota. Is that correct? How much confiscated ivory is typically added to each country's quota?

10. It was reported at the CITES meeting last year that 78% of the ivory that enters the world trade was taken from illegally poached elephants.
- Are there any indications that the CITES ivory control system is improving the situation yet?
 - Should that system be abandoned?

Stockpiling ivory

11. The price of ivory has risen from approximately \$7/kilogram in 1970 to over \$100/kilogram today. Some have suggested that the stockpiling of ivory is the cause of this increase in price. Can anyone explain why there might be increasing interest in stockpiling ivory, or offer another explanation for this substantial price increase?

Questions for World Wildlife Fund

A report prepared for the Subcommittee by the World Wildlife Fund estimates that over 32,000 elephants were killed to supply the U.S. market in 1986. If that figure is correct, and you are also correct in estimating that the U.S. share of the world market for worked ivory is 10%, it would follow that 320,000 elephants must be killed to satisfy the world market each year. That figure is astounding, given the fact that the estimated population of elephants in Africa is only 760,000. Is it possible that many elephants were killed? If not, can you explain the discrepancy?

Questions for the Humane Society

- Safari hunters have urged the Committee to make an exemption for trophy hunting, if a ban is imposed on the importation of elephants. They argue that hunting fees paid by trophy hunters are often used for elephant conservation, and that hunting safaris actually contribute to the continued preservation of elephants. Do you agree?

2. Dr. Lieberman and Dr. Hamilton, can you respond to the following arguments made by those who oppose a total ban on ivory imports?
 - It could alienate African countries that are making an honest effort to enforce a limited legal harvest of elephants, and might lead African nations to resist conservation programs.
 - The proceeds from legal culling operations are used for elephant conservation.
 - The U.S. accounts for a relatively small percentage of the world market for ivory, and a ban would lead ivory carvers and producers to find alternative markets.

Question for Dr. Nduku, Zimbabwe

1. Dr. Nduku, when effective elephant conservation programs are discussed, Zimbabwe is always given as an example of a country with an excellent program. Why is it such a good one? How can we encourage other African countries to establish such programs?

Question for Mr. Western

Mr. Western, you note that "the U.S. only consumes 12% of the world's ivory" and that the U.S. market is "too small to have any appreciable effect in world demand". I understand however, that 30% of the worked ivory from Hong Kong is exported to the U.S., and I would assume that that percentage is high enough to exert pressure on Hong Kong. Do you agree?

Questions for Dr. Hamilton

Dr. Hamilton, you state in your testimony that "a moratorium on ivory imports by the U.S. alone would not stop the world trade, but it will make it less profitable and provide a lead for other countries." It sounds like you support a ban, but in the next sentence you say that "Range states with ivory legitimately acquired by government still need an outlet and should be exempted from any moratorium".

- a. By what mechanism would you identify which range states should be exempted, and through what sort of scheme would you allow their ivory to be imported to the U.S?
 - b. Specifically, would you allow it to be worked in Hong Kong and then exported to the U.S.?
2. Dr. Hamilton, you note that the U.S. and Europe are estimated to account for 43% of the world imports of worked ivory. The World Wildlife Fund suggests that the figure is less than half of that, and that the U.S. imports only 10% of all the worked ivory products manufactured each year. Does that alter your recommendations on our legislation?

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
 Room 1334, Longworth House Office Building
 Washington, DC 20515-6230

June 14, 1988

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BACKGROUND MEMORANDUM

TO: Members, Subcommittee on Fisheries and Wildlife Conservation and the Environment

FROM: Subcommittee Staff

SUBJECT: Pending elephant conservation legislation

On Wednesday, June 22, 1988, at 9:30 a.m. in room 1334 of the Longworth House Office Building, the Subcommittee on Fisheries and Wildlife Conservation and the Environment will conduct a hearing on H.R. 2999, the Elephant Protection Act; and a staff Committee Print entitled the African Elephant Conservation Act.

The witnesses will include Congressmen Beilenson and Fields, representatives of the U.S. Fish and Wildlife Service, the World Wildlife Fund, the Humane Society of the United States, the African Elephant and Rhino Specialist Group of the International Union for the Conservation of Nature, and Iain Douglas-Hamilton, an elephant biologist.

BACKGROUND

African Elephant Population Decline

There are great uncertainties about the total number of elephants in Africa, and estimates are made cautiously, especially in forested areas, where it is difficult to count from the air. Recent studies suggest that the population of elephants in Africa has decreased from 1,200,000 in 1981 to 760,000 in 1987, an average annual rate of decline of 6%. In some regions the decline is even more severe. For example, elephants reportedly declined by approximately 60% between 1976 and 1983 in the Garamba National Park in Zaire, where they had formerly been one of the densest populations in Africa. Aerial surveys of two national parks in the Central African Republic in 1985 revealed a decline in elephants of 80% since 1981. The most recent estimate of the elephant population in that nation is 10,000 to 15,000 elephants, compared with estimates of 80,000 to 100,000 in 1976. It is likely that the Sudan has lost at least half of its elephants since 1975, and may have lost as many as 90%. In eastern Kenya, certain areas have lost between 90 and 95% of their elephants over a period of 15 years.

The situation is not as grim in all areas of Africa, however. In some southern African countries, elephant populations are actually increasing. Zimbabwe, Malawi, Botswana, South Africa, and Namibia are recognized as having effective elephant conservation programs, and have not experienced the declines described above.

1987 Elephant Population Estimates

Zaire	195,000 elephants
Tanzania	100,000
Gabon	76,000
Congo	61,000
Botswana	51,000
Zimbabwe	43,000
Zambia	41,000
Sudan	40,000
Kenya	35,000
Cameroon	21,000
CAR	19,000
Others	82,000
Total	764,000

Elephant Population Estimates, Trends, Ivory Quotas and Harvests,
Report to the Cites Secretariat for the African Elephant and
Rhino Specialist group, July 1987.

Trade in Elephant Ivory

It is widely acknowledged that the most immediate threat to the future of elephants in Africa is ivory poaching. Approximately 100,000 elephants were killed in 1986 for their ivory, with potentially significant long-term impacts on the populations which now number only 760,000. Drought, disease, and competition for land use arising from human population growth have been, and will continue to be, threats to elephant populations, but the poaching of elephants for their ivory has reached such significant levels that it now overshadows these other factors.

The international trade in ivory has two basic components. The first is trade in raw ivory, or unworked tusks and large pieces. The second is the trade in worked ivory, or finished ivory products. The U.S. imports a small percentage of the unworked ivory that enters the world trade. According to data from the U.S. Fish and Wildlife Service, the U.S. imported 953 tusks and an additional 238 kgs of tusks in 1986. Using an average weight per tusk of 4.7 kilograms these figures represent the tusks of 500 elephants. The vast majority of unworked ivory is shipped from Africa to what are referred to as "intermediary countries" in the Far East, primarily Japan and Hong Kong, where it is carved into worked ivory products. The price of unworked ivory has increased from \$7.44/kilogram in 1970 to over \$100/kilogram in 1987.

It is estimated that the U.S. imports approximately 30% of the worked ivory that enters international trade. This figure does not accurately represent the U.S. share of the world market for worked ivory products, however. A large portion of the ivory that is carved in Japan does not subsequently enter international trade as worked ivory, but rather, is bought by Japanese consumers. Therefore, the U.S. share of all the ivory that is worked into finished products each year may be substantially less than 30%. The declared value of U.S. imports of ivory in 1986 was over \$22 million, according to data from the U.S. Fish and Wildlife Service.

Elephant skins are also imported into the U.S. and used in the shoe industry. The source of elephants for this trade is almost entirely from southern Africa where controlled culling takes place. The trade is largely legal and there is no evidence of poaching for skins.

Protection under the Endangered Species Act

The African elephant is listed as a "threatened" species pursuant to the Endangered Species Act. When a species is so designated, the Secretary of Interior is directed "to issue such regulations he deems necessary and advisable" to provide for its conservation. The Secretary has issued regulations that allow the importation of worked ivory only from nations that are parties to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES). Export permits from the exporting country must accompany the shipments of ivory. The export permits indicate the country of origin of the ivory, even if it has been shipped to an intermediary country and worked into a finished product. For unworked ivory, both the country of origin and the exporting country must be party to CITES. The export permit must indicate the country of origin, and the ivory must be marked to identify the country of origin, if feasible.

The Fish and Wildlife Service recently published a notice in the Federal Register prohibiting the importation into the U.S. of any ivory from Burundi, a country with no resident populations of elephants and a huge inventory of illegal ivory. The Service further prohibited the importation of ivory into the U.S. from any intermediary nation that imports ivory from Burundi.

The Asian Elephant, by contrast, is listed as "endangered" pursuant to the Endangered Species Act, and because of that designation, importation of its ivory into the U.S. is prohibited.

International Control of the Ivory Trade

The Convention for the International Trade in Endangered Species of Wild Fauna and Flora (CITES) is the primary international agreement for the control of trade in wildlife

products, including elephant products. The African elephant has been listed on the Appendix II list of CITES, which is analogous to a listing as "threatened" under U.S. law. Under the provisions of CITES, international trade in Appendix II species is allowed if the country of origin and the country of reexport, if there is one, make certain findings about the health of the species, and issue an export permit.

In 1985, the members of CITES adopted a system designed to monitor and control trade in unworked elephant ivory, called the Ivory Export Quota System. Under that system, each African country first sets a quota establishing the number of elephants that can be killed within its borders during the following year. All tusks and large pieces of unworked ivory taken within each country must be marked with that country's identification number. The export of those tusks or pieces must be accompanied by an export permit, and a copy of the permit must be sent to the CITES Secretariat. The Secretariat then tallies the number of tusks that are exported from each African country to ensure that its quota is not surpassed. Before an importing country accepts a shipment of ivory, it must first receive notification from the Secretariat that the permit is in order and that the quota has not been reached.

The quota system went into effect in 1986. A report submitted to the 1987 CITES meeting acknowledged that the system did not yet function effectively to curtail the massive illegal ivory trade: legal exports accounted for only 22% of the trade. However the ivory with legitimate paper-work required by the control system was reportedly selling for several times the price it would without papers. The quota system also appears to be working in those African countries where law enforcement is effective. A report submitted to CITES in 1987 from the International Union for Conservation of Nature predicted that the system should begin to work in the manner intended by the end of 1987.

It should be noted, however, that the CITES system does not attempt to monitor and control trade in worked ivory.

Legislative Proposals

There are two legislative proposals pending before the Subcommittee that will be discussed at the hearing. The first is H.R. 2999, the Elephant Protection Act, introduced by Congressman Beilenson in July, 1987. It would prohibit the importation of elephant products into the U.S., except as specifically authorized by the Secretary of Interior for scientific purposes or for the enhancement of elephants populations.

The second legislative proposal, entitled the African Elephant Conservation Act, was drafted by Committee staff and has not been introduced. It would require that the Secretary of Interior evaluate the elephant conservation programs of the

African nations to determine which have effective elephant conservation programs. The Secretary would be required to prohibit the importation of elephant ivory from nations that do not have effective conservation programs and from intermediary countries that import ivory from those nations. It would further impose a tax on imported elephant ivory and direct that the revenues generated by the tax be used to fund elephant conservation efforts in Africa.

Past Congressional Action

In 1979, the Committee on Merchant Marine and Fisheries held a hearing on elephant protection legislation (H.R. 4685). At that time, the population of elephants in Africa (1.3 million elephants) was substantially larger than it is now (760,000 elephants). The legislation was reported by the Committee and passed by the House of Representatives in 1979, but no action was taken by the Senate. H.R. 4685 would have established a system whereby elephants and elephant products could only be imported from countries in which there were management programs that adequately protected elephants. It would also have provided exemptions for the importation of unworked ivory to supply the U.S. carving industry, for the importation of keyboard ivory, for the importation of elephants for zoological, educational, scientific, and exhibit purposes, and for the importation of elephant parts obtained through trophy hunting.

ISSUES

Need for legislation

Elephants are listed as "threatened" pursuant to the Endangered Species Act. The Secretary of the Interior is directed to issue regulations that deems necessary and advisable for the conservation of threatened species. Those regulations can include restrictions on the trade in the species. Members may wish to discuss the need for legislation to specifically address the declining populations of elephants, when the Secretary of the Interior already has authority to take action to protect them administratively.

Moratorium on ivory imports

H.R. 2999, the Elephant Protection Act would impose a ban on the importation of elephants products into the U.S. Many conservation organizations and African countries oppose a complete ban on the importation of elephant ivory. They note that several African countries have effective elephant conservation programs and healthy populations of elephants that can withstand regulated culling operations. The revenues from those operations are often used to provide for the continued conservation of elephants. A complete ban could penalize these countries by closing the market for their ivory products, and by reducing the revenues available to them for elephant conservation.

Others have suggested a ban on the importation of elephant products from intermediary countries. There is a concern that a ban on ivory imports from intermediary countries could be equivalent to a total ban, for practical purposes, since there is a very small market for worked ivory that has been carved in Africa. The major world market is for ivory carved in the Far East by intermediary countries.

Tax on Ivory Products

The legislation developed by Committee staff would impose a tax on ivory imported into the U.S. from countries with effective elephant conservation programs. The revenues generated from the tax would be used to fund elephant conservation programs and anti-poaching efforts in African countries. This provision was included in an attempt to provide the underdeveloped African nations with the resources they need to protect their elephants from poachers. It was also designed to force consumers of ivory to pay a portion of the cost of managing the elephant populations. The concept has been criticized by representatives of animal protection organizations, who argue that the imposition of such a tax would encourage African nations to export ivory to the U.S. in anticipation of the tax revenues, and would allow ivory merchants in the U.S. to argue that the purchase of ivory contributes to the conservation of elephants in Africa.

Elephant Conservation Programs & Origin of Ivory Imports

The legislation developed by Committee staff would prohibit the importation of ivory from nations that do not have effective elephant conservation programs. It would require the Fish and Wildlife Service to evaluate the elephant conservation programs of each African nation and determine whether their programs are effective. Members may wish to ask the Service about its ability to make such determinations.

The vast majority of ivory destined for the U.S. is shipped from African countries to Hong Kong, where it is carved and reexported into the U.S. Once it arrives at U.S. ports of entry, we would have to determine its country of origin in order to determine whether it could be imported under the scheme set up by the legislation. Members may wish to discuss our ability to determine the country of origin of the ivory, once it is cut into small pieces and carved.

U.S. Compliance with CITES Ivory Control System

The U.S. Fish and Wildlife Service has been criticized for reported incidences in which ivory was imported into the U.S. in violation of the CITES ivory control system. For example, the World Wildlife Fund has reported to the Committee that ivory was imported into the U.S. from Zaire, a nation that had suspended exports of ivory for several years, from India (where elephants are endangered, and no imports into the U.S. are allowed), and from Angola, a nation which was not a party to CITES. (The CITES ivory control system prohibits the importation of ivory from nations that are not party to CITES.)

100TH CONGRESS
2D SESSION

H. R. 4849

To prohibit the importation of African elephant ivory from any country which does not have a population of African elephants living in the wild, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1988

Mr. FIELDS introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To prohibit the importation of African elephant ivory from any country which does not have a population of African elephants living in the wild, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "African Elephant Anti-
5 Poaching Act of 1988".

6 **SEC. 2. CONGRESSIONAL DECLARATION OF PURPOSE AND**
7 **POLICY.**

8 (a) **DECLARATION OF PURPOSE.**—The purpose of this
9 Act is—

1 (1) to ensure the continued existence of large and
2 healthy populations of African elephants;

3 (2) to eliminate the role of the United States in
4 creating world demand for African elephant ivory; and

5 (3) to encourage other nations to join in a world-
6 wide effort to stop all trade in illegally obtained Afri-
7 can elephant ivory.

8 (b) CONGRESSIONAL FINDINGS AND POLICY.—

9 (1) FINDINGS.—The Congress finds and declares
10 that—

11 (A) a drastic decline in populations of African
12 elephants has occurred in the countries of East
13 Africa;

14 (B) a gradual but steady decline in popula-
15 tions of African elephants is taking place through-
16 out most of the other African countries which Af-
17 rican elephants inhabit;

18 (C) the main cause of this decline is the
19 widespread killing of African elephants by poach-
20 ers for the commercial value of their ivory tusks;
21 and

22 (D) sport hunters are not part of the poach-
23 ing problem, are instrumental in protecting Afri-
24 can elephants, and provide economic incentives
25 for conservation of African elephants.

1 (2) POLICY.—It is the policy of the United
2 States—

3 (A) to pursue actively through international
4 initiatives the establishment of effective controls
5 on the killing of African elephants;

6 (B) to pursue actively a ban on the interna-
7 tional trade in illegally obtained African elephant
8 ivory; and

9 (C) to provide appropriate forms of aid to na-
10 tions wishing to prevent the destruction of African
11 elephant habitat and the overexploitation of Afri-
12 can elephant populations.

13 SEC. 3. PROHIBITED ACTS.

14 (a) IN GENERAL.—Subject to subsection (b), it is un-
15 lawful—

16 (1) for any person to import into the United
17 States any African elephant ivory from any country
18 which—

19 (A) is not a member of the Convention on
20 International Trade in Endangered Species of
21 Wild Fauna and Flora;

22 (B) does not have a population of African
23 elephants living in the wild; or

24 (C) is not a part of the African Continent;
25 and

1 (2) for any person to import into the United
2 States any African elephant ivory from Burundi.

3 (b) EXEMPTIONS OF SPORT TROPHIES.—This Act
4 shall not prohibit the importation into the United States of
5 African elephant ivory from an African elephant that was
6 legally taken by sport hunting in a country, other than Bu-
7 rundi, that—

8 (1) is a member of the Convention on Internation-
9 al Trade in Endangered Species of Wild Fauna and
10 Flora;

11 (2) has a population of African elephants living in
12 the wild; and

13 (3) is a part of the African Continent.

14 SEC. 4. PENALTIES.

15 (a) CIVIL PENALTIES.—

16 (1) IN GENERAL.—Any person who knowingly
17 violates, any provision of this Act may be assessed a
18 civil penalty by the Secretary of not more than
19 \$10,000 for each violation. No penalty may be as-
20 sessed under this subsection unless such person is
21 given notice and opportunity for a hearing with respect
22 to such violation. Each violation shall be a separate of-
23 fense. Any such civil penalty may be remitted or miti-
24 gated by the Secretary. Upon any failure to pay a pen-
25 alty assessed under this subsection, the Secretary may

5

1 request the Attorney General to institute a civil action
2 in a district court of the United States for any district
3 in which such person is found, resides, or transacts
4 business to collect the penalty and such court shall
5 have jurisdiction to hear and decide any such action.
6 The court shall hear such action on the record made
7 before the Secretary and shall sustain his action if it is
8 supported by substantial evidence on the record consid-
9 ered as a whole.

10 (2) PROCEEDING.—Hearings held during proceed-
11 ings for the assessment of civil penalties authorized by
12 paragraph (1) of this subsection shall be conducted in
13 accordance with section 554 of title 5, United States
14 Code. The Secretary may issue subpoenas for the at-
15 tendance and testimony of witnesses and the produc-
16 tion of relevant papers, books, and documents, and ad-
17 minister oaths. Witnesses summoned shall be paid the
18 same fees and mileage that are paid to witnesses in the
19 courts of the United States. In case of contumacy or
20 refusal to obey a subpoena served upon any person
21 pursuant to this paragraph, the district court of the
22 United States for any district in which such person is
23 found or resides or transacts business, upon application
24 by the United States and after notice to such person,
25 shall have jurisdiction to issue an order requiring such

1 person to appear and give testimony before the Secre-
2 tary or to appear and produce documents before the
3 Secretary, or both, and any failure to obey such order
4 of the court may be punished by such court as a con-
5 tempt thereof.

6 (b) CRIMINAL PENALTIES.—Any person who knowing-
7 ly violates any provision of this Act shall, upon conviction, be
8 fined not less than \$5,000 and not more than \$20,000, or
9 imprisoned for not more than one year, or both.

10 (c) DISTRICT COURT JURISDICTION.—The several dis-
11 trict courts of the United States, including the courts enu-
12 merated in section 460 of title 28, United States Code, shall
13 have jurisdiction over any actions arising under this Act. For
14 the purpose of this Act, American Samoa shall be included
15 within the judicial district of the District Court of the United
16 States for the District of Hawaii.

17 (d) REWARDS AND CERTAIN INCIDENTAL EX-
18 PENSES.—The Secretary or the Secretary of the Treasury
19 shall pay, from sums received as penalties, fines, or forfeit-
20 ures of property for any violation of this Act or any regula-
21 tion issued hereunder, a reward to any person who furnishes
22 information which leads to an arrest, a criminal conviction,
23 civil penalty assessment, or forfeiture of property for any vio-
24 lation of this Act or any regulation issued hereunder. The
25 amount of the reward, if any, is to be designated by the Sec-

1 retary or the Secretary of the Treasury, as appropriate. Any
2 officer or employee of the United States or any State or local
3 government who furnishes information or renders service in
4 the performance of his official duties as ineligible for payment
5 under this subsection.

6 SEC. 5. ENFORCEMENT.

7 (a) IN GENERAL.—This Act and any regulations or per-
8 mits issued pursuant thereto shall be enforced by the Secre-
9 tary, the Secretary of the Treasury, or the Secretary of the
10 Department in which the Coast Guard is operating, or all
11 such Secretaries. Each such Secretary may utilize by agree-
12 ment, with or without reimbursement, the personnel, serv-
13 ices, and facilities of any other Federal agency or any State
14 agency for purposes of enforcing this Act.

15 (b) ISSUANCE OF PROCESS.—The judges of the district
16 courts of the United States and the United States magistrates
17 may, within their respective jurisdictions, upon proper oath
18 or affirmation showing probable cause, issue such warrants or
19 other process as may be required for enforcement of this Act
20 and any regulation issued thereunder.

21 (c) INSPECTIONS, ARRESTS, SEARCHES, AND SEI-
22 ZURES.—Any person authorized by the Secretary, the Secre-
23 tary of the Treasury, or the Secretary of the Department in
24 which the Coast Guard is operating, to enforce this Act may
25 detain for inspection and inspect any package, crate, or other

1 container, including its contents, and all accompanying docu-
2 ments, upon importation or exportation. Such person may
3 make arrests without a warrant for any violation of this Act
4 if he has reasonable grounds to believe that the person to be
5 arrested is committing the violation in his presence or view,
6 and may execute and serve any arrest warrant, search war-
7 rant, or other warrant or civil or criminal process issued by
8 any officer or court of competent jurisdiction for enforcement
9 of this Act. Such person so authorized may search and seize,
10 with or without a warrant, as authorized by law. Any item so
11 seized shall be held by any person authorized by the Secre-
12 tary, the Secretary of the Treasury, or the Secretary of the
13 Department in which the Coast Guard is operating pending
14 disposition of civil or criminal proceedings, or the institution
15 of an action in rem for forfeiture of such item pursuant to
16 paragraph (4) of this subsection; except that the Secretary
17 may, in lieu of holding such fish, wildlife, property, or item,
18 permit the owner or consignee to post a bond or other surety
19 satisfactory to the Secretary, but upon forfeiture of any such
20 property to the United States, or the abandonment or waiver
21 of any claim to any such property, it shall be disposed of
22 (other than by sale to the general public) by the Secretary in
23 such a manner, consistent with the purposes of this Act, as
24 the Secretary shall by regulation prescribe.

25 (d) FORFEITURE.—

1 (1) FORFEITURE OF IVORY.—All African elephant
2 ivory imported contrary to the provisions of this Act,
3 any regulation made pursuant thereto, or any permit or
4 certificate issued hereunder shall be subject to forfeit-
5 ure to the United States.

6 (2) FORFEITURE OF MEANS OF TRANSPORTA-
7 TION.—All equipment, vessels, vehicles, aircraft, and
8 other means of transportation used to aid the taking,
9 possessing, selling, purchasing, offering for sale or pur-
10 chase, transporting, delivering, receiving, carrying,
11 shipping, exporting, or importing of any item in viola-
12 tion of this Act or of any regulation made pursuant
13 thereto, shall be subject to forfeiture to the United
14 States upon conviction of a criminal violation pursuant
15 to section 4(b).

16 (e) APPLICATION OF OTHER LAWS.—

17 (1) IN GENERAL.—Subject to paragraph (2), all
18 provisions of law relating to the seizure, forfeiture, and
19 condemnation of a vessel for violation of the customs
20 laws, the disposition of such vessel or the proceeds
21 from the sale thereof, and the remission or mitigation
22 of such forfeiture, shall apply to the seizures and for-
23 feitures incurred, or alleged to have been incurred,
24 under the provisions of this Act, insofar as such provi-

1 sions of law are applicable and not inconsistent with
2 the provisions of this Act.

3 (2) POWERS, RIGHTS, AND DUTIES UNDER CUS-
4 TOMS LAWS.—All powers, rights, and duties conferred
5 or imposed by the customs laws upon any officer or
6 employee of the Treasury Department shall, for the
7 purposes of this Act, be exercised or performed by the
8 Secretary or by such persons as he may designate.

9 (f) INJUNCTIONS.—The Attorney General may seek to
10 enjoin any person who is alleged to be in violation of any
11 provision of this Act or regulation issued under authority
12 thereof.

13 SEC. 6. REGULATIONS.

14 The Secretary, the Secretary of the Treasury, and the
15 Secretary of the Department in which the Coast Guard is
16 operating, may issue such regulations as may be appropriate
17 to enforce this Act, and charge reasonable fees for expenses
18 to the Government connected with permits or certificates au-
19 thorized by this Act including processing applications and
20 reasonable inspections, and with the transfer, board, han-
21 dling, or storage of fish or wildlife or plants and evidentiary
22 items seized and forfeited under this Act. All such fees col-
23 lected pursuant to this subsection shall be deposited in the
24 Treasury to the credit of the appropriation which is current
25 and chargeable for the cost of furnishing the services. Appro-

1 priated funds may be expended pending reimbursement from
2 parties in interest.

3 **SEC. 7. ADMINISTRATION.**

4 The Secretary, in consultation with the Secretary of the
5 Treasury and the Secretary of the department in which the
6 Coast Guard is operating, shall administer this Act.

7 **SEC. 8. COORDINATION WITH OTHER LAWS.**

8 Nothing in this Act shall be construed as superseding or
9 limiting in any manner the functions and responsibilities of
10 the Secretary under the Endangered Species Act of 1973 (16
11 U.S.C. 1531 et seq.) or of the Secretary of the Treasury
12 under the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

13 **SEC. 9. PREEMPTION.**

14 Any State law or regulation which applies with respect
15 to the importation of raw or worked African elephant ivory
16 or to interstate or foreign commerce involving such ivory is
17 void to the extent that it may effectively—

18 (1) permit what is prohibited by this Act or by
19 any regulation issued under this Act, or

20 (2) prohibit what is authorized by this Act or by
21 any regulation issued under this Act.

22 **SEC. 10. DEFINITIONS.**

23 For purposes of this Act—

24 (1) **AFRICAN ELEPHANT.**—The term “elephant”
25 means any animal of the species *Loxodonta africana*.

1 (2) AFRICAN ELEPHANT IVORY.—The term “Af-
2 rican elephant ivory” means ivory from an African ele-
3 phant.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior.

6 (4) STATE.—The term “State” means any State
7 of the United States, the District of Columbia, the
8 Commonwealth of Puerto Rico, and any territory or
9 possession of the United States.

10 (5) UNITED STATES.—The term “United States”,
11 when used in a geographical context, includes all
12 States.

Summary of H.R. 4849
the African Elephant Anti-Poaching Act of 1988
introduced by Mr. Fields
6/16/88

1. H.R. 4849 would prohibit the importation of African elephant ivory into the United States from any country that
 - is not a member of CITES,
 - doesn't have a population of African elephants living in the wild, or
 - is not a part of the African continent.
2. It would prohibit the importation of ivory from Burundi.
3. It would specifically allow the importation of ivory trophies from sport hunting from nations that meet the above criteria.
4. The maximum civil penalty for violations is \$10,000.
The maximum criminal penalty is \$20,000 and 1 year in prison.
The minimum criminal penalty is \$5,000.

TESTIMONY OF SAFARI CLUB INTERNATIONAL

BEFORE THE SUBCOMMITTEE ON FISHERIES AND
WILDLIFE CONSERVATION AND THE ENVIRONMENT
OF THE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
OF THE
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 2999 AND RELATED BILLS
ON
THE CONSERVATION OF ELEPHANTS

June 22, 1988

INTRODUCTION

Mr. Chairman and Members of the Subcommittee:

My name is Richard M. Parsons and I am counsel to the Governmental Affairs Committee of the Safari Club International. We appreciate the opportunity to submit testimony on H.R. 2999, introduced by Mr. Bielensohn, on H.R. 4849, introduced by Mr. Fields, and on the Committee Print, all on the subject of elephant conservation.

Safari Club International (SCI) is an international organization of sportsmen conservationists. We represent more than one million people worldwide. We have eighty chapters throughout the United States and in seven foreign countries, and we have forty-four affiliated organizations.

SCI shares the concern presented by Congressman Bielensohn and Congressman Fields and by the other witnesses regarding the status of the African elephant. Our members are regularly in the field in Africa and have first-hand knowledge of the problem of poaching, and of the problem of the conservation of elephants in the face of exploding human populations and the urgent needs of the various African countries. Based on our direct experience, we have several observations that we would like to make. We will also offer some specific comments on the bills before us.

SUMMARY

Any effective conservation legislation on the elephant, a species not native to the United States, must be based on "hard" information. It should definitely not be based on assumptions that

may sound good to people living in their urban environments in the United States, but that will not hold up when applied to the countries in which the elephants are found. Second, there must be adequate consultation with the African countries involved, particularly since the United States approved a resolution last summer at the CITES Meeting that calls for such consultations. Third, an effective conservation measure must provide adequate funding. Fourth, it must recognize the principle that the wildlife must have some value to the local people or there will be no incentive to conserve it.

Two of the bills that are under consideration today, H.R. 2999 and H.R. 4849, would propose bans of various types as a solution to the problem of elephant conservation. The bans are based on assumptions, not hard information. They would be imposed without consultation. They do not provide funding for elephant conservation initiatives, let alone funding to implement the bans that they propose. And they use a heavy-handed approach that does not recognize the need to provide a value for the African wildlife they are trying to conserve. In fact they do just the opposite - they rob African wildlife of its value and destroy the incentive for conservation.

We prefer the Committee Print to either of the two numbered bills. However, there are some aspects of the Committee Print that need improvement as well: it should provide direct funding for the CITES Ivory Control System, and it should not contain provisions allowing bans by the Secretary of the Interior.

THE NEED FOR HARD INFORMATION

Some of the solutions that are proposed here today are based on assumptions as opposed to "hard" information. One thing that particularly concerns us is the assumption that a ban on trade is an effective mechanism. Experience with other species indicates that if there is a real-world demand for the product, as there certainly is for elephant ivory, a ban only serves to raise the price and determined people will find a way around the ban. The problem is that no one that is proposing a ban actually knows whether a ban will have the desired effect. But they press on for a ban of one sort or another anyway, even in the face of advice to the contrary from professional wildlife management in place in African countries.

We have also heard much discussion of the terrible decline of elephant populations. While there is evidence of severe declines in some areas, there is no good information on the overall status of the African elephant. We agree that given the apparent trends and given the elephants prodigious requirements for space and food, and given the rapid growth of human populations and agricultural programs throughout Africa, it is prudent to be putting

conservation programs in place. But it is not prudent to be panicked into hasty conclusions and ill-founded programs because we think that there is a disastrous decline.

Therefore, one element of any program you decide to recommend to the full House should be to find out just what is happening, in fact, to the elephant populations. The first place to look for such information is to ask the wildlife agencies of the countries involved, and to rely on the information from and the opinions of their professional wildlife managers. There may be a need for additional or supplemental information on basic biology and on the status and the life history of elephants, particularly in the heavily forested regions of central Africa. Such work requires planning, money, and available manpower. It also requires the cooperation of the countries in which the elephants are found -- the range countries.

Other information is needed about the connections between the utilization of elephant products and the conservation of the species. Our information, based on discussions with wildlife managers in Zimbabwe, South Africa, Zambia, Tanzania, Malawi, Kenya and other African countries is that it is important for elephants to have an economic value to the local population, or there will be no reason to conserve them. As Dr. Graham Child, the former head of National Parks for Zimbabwe, said at the Fifth Meeting of the Conference of the Parties to CITES, a failure to recognize this principle is to assure a victory for the cow and the plow over the wildlife and the forest.

Those who would propose bans of various types have not, in our view, adequately investigated the impact that such bans would have on the incentive for conservation of elephants in the various countries. We know, for example, that the marketing of elephant ivory and leather from animals culled in the Kruger National Park in South Africa is essential to support the program of elephant conservation in that region. Other countries have similar programs, where poaching in parks is controlled by enlisting local villagers to stop the poachers, in return for a share in the proceeds of the culling operations. The culling, in turn, keeps the elephant populations in balance with the available land and food in the parks, and prevents the elephants from ravaging the crops of the local farmers.

THE NEED FOR CONSULTATION WITH AFRICAN COUNTRIES

The recent Meeting of the Conference of the Parties to CITES, held last summer in Ottawa, adopted a resolution which called upon any Party which intended to take "stricter domestic measures" regarding non-indigenous species to notify the range states and to consult with them prior to the adoption of such measures. (Com. 6.20) The resolution was proposed by a coalition of African

countries, and it was adopted, without dissent, specifically to avoid the effects of some of the ideas proposed here today.

The resolution grew out of the frustration of African countries. They, the countries which actually hold populations of animals like crocodiles and leopards and elephants -- the range countries, would come to CITES Meetings, with over 60 countries participating, and present the best evidence they could on the status of these species. The Parties, after extensive discussion and debate, would agree to allow controlled trade or other utilization of these species. Then some countries would return home and impose "stricter domestic measures" to ban such trade. While such bans were technically legal under CITES, they defeated the conservation programs of the range countries by denying value to the species concerned.

The proposals before us that involve bans suffer from the very problem that is at the heart of the CITES resolution. They impose solutions on the range countries without consultation. It is improper and irresponsible for the United States to impose what it considers to be solutions on the countries which actually have the populations of animals, without having engaged in thorough and meaningful consultations with the professional wildlife staffs of the affected countries beforehand. In addition, we should do our best to assure that such consultations should be carried out with the participation of the responsible wildlife managers in the affected countries. Anything less would not live up to the Resolution which we, along with all the other Parties, adopted.

We feel particularly strongly about this because we have watched the United States impose its own ideas and solutions on other countries, without adequate consultation. For example, CITES has approved controlled and limited trade in the Nile crocodile for several years now, from ten African countries. The United States has just approved such trade with one of those countries, and has refused to approve it with the other nine. There are other examples where the combination of our laws, regulations, and environmental politics have made us an "ecological imperialist" to the rest of the world on wildlife matters. We would hate to see that happen here, where we have a chance to avoid it from the beginning.

Contrary to the prevailing "smart" remarks often heard when Washington "environmental" organization get together, there are competent, dedicated and well-trained professional wildlife managers in place in many African nations. Many of those countries have well-organized and efficient game departments that carry out meaningful programs. Their primary problems are generally a lack of funds and having to fight for priorities within government circles when dam building, road construction and agricultural expansion for cash crops are more important than wildlife.

THE NEED FOR ADEQUATE FUNDING OF CONSERVATION PROGRAMS

To be effective and meaningful, a conservation program must be adequately funded. We have the best example right here in our own country with the Pittman-Robinson and related excise tax programs. That money, paid in by sportsmen, along with license fees from sportsmen (and general revenues in some states), has been the backbone of wildlife conservation in the United States. We can be as idealistic as we want, but without some way to generate the hard cash needed to pay the salaries of wildlife biologists and managers, we would have nothing to show but our ideals. The same is true of our efforts to conserve elephants.

There is little disagreement that it is necessary to control the trade in ivory in such a way as to eliminate, to the greatest practical extent, poaching and illegal trading. There is one meaningful and effective program to do this -- the Ivory Control System of CITES. This system was set up, after much discussion of the issue, by the Parties to CITES. Unfortunately, the CITES Parties, as a group, suffer from the same problem that we see elsewhere -- they are unwilling to provide the funds necessary to do the jobs that they demand to be done. Part of the explanation for this is simple -- in every government which is a party to CITES, those who represent the government at CITES do not necessarily control the purse strings. Whatever the reason, the CITES Ivory Control System is both necessary and under-funded. It is critically important that any conservation program for elephants provides proper funding for this system. There is no other body in the world that could develop and set up a similar mechanism to monitor and control the world trade in ivory. This system was developed with the cooperation of the ivory trade, the producing countries, and the consuming countries. It is our best hope for a meaningful control.

In addition, an effective conservation program for elephants must provide for actions to be taken in Africa by African countries, or at least with their approval. It also must provide the funding for such actions. The conservation of African elephants is an African problem, and the solution must be an African solution. This will inevitably involve actions by and in African countries. Since it seems to be our priority to do something about elephants, then we must provide the funding to make that priority meaningful. Just as with wildlife conservation in the United States, wishful thinking does not pay for scientific research or for wildlife management. Money pays for such things. Why should we expect it to be any different elsewhere?

AN EFFECTIVE CONSERVATION PROGRAM MUST PROVIDE VALUE

We are convinced, as are many of the world's leading wildlife biologists, that unless wildlife is valued by the people where it

occurs, it will not be conserved. Some countries, such as the United States, have the luxury to value wildlife for aesthetic reasons. But even in our country, it is the sportsman's money that really pays for conservation. In addition, we must deal with the destructive aspects of wildlife and compensate the farmers for their depredation losses, or they will not support wildlife conservation.

The countries where the elephant occurs are, to the greatest extent, facing human population increases of dramatic proportions. Kenya, for example, has the world's highest annual rate of increase -- over 4%. In addition, African cultures and traditions have always viewed the forest and the plains and their animal produce in a utilitarian fashion -- the animals and the plants were to be utilized. If they had no utility, they had no value.

To put this in modern terms, we can look at recent examples of game fences in Botswana and the machine-gunning of thousands of buffalo in Zimbabwe to eradicate hoof and mouth disease so that these countries can sell their beef to the European Community. We can look at people who are told they cannot come on into a park to gather firewood because we must conserve wildlife that they cannot hunt.

In these and similar situations, the wildlife and the forests have ceased to have value to the people, and the people will not support the conservation programs involved. In the first example, the buffalo and other wild animals simply did not have enough priority when weighed against the possible gains from selling cattle, so they were slaughtered by the tens of thousands. In the second case, the people in the vicinity of the park will not respect the "sanctity" of the park because it makes no sense to them. They cannot use the wildlife and they cannot use the firewood. This makes the park completely useless, unless the wildlife is somehow utilized by others and the benefits (cash) flows to the local people.

We can sit secure in our cozy condominiums and develop wildlife programs for Africa, but that will not make anything happen. It is Africans who will either conserve or squander their wildlife resource. If in our arrogance we deny any value to the wildlife, then the African farmer or engineer or city planner will have no choice but to take care of human values and to ignore the needs of the wildlife.

SPECIFIC COMMENTS ON THE PROPOSED LEGISLATION

Of the three items before us today, we must favor the Committee Print. There are also some aspects of H.R. 4849 that we agree with. We disagree completely, however, with H.R. 2999.

Before we begin discussing the specific bills, we must note that we are appalled that no one from CITES is here to testify on these

bills. CITES, to which we are a party, and for which we sponsored the negotiating conference in 1973, has been grappling with the problem of elephant conservation since 1981. It has established the only meaningful international effort to do something -- the Ivory Control System. Yet we are lacking the counsel of its voice. Likewise, we are appalled that wildlife management professionals from the affected African countries are not here to speak on a subject that they know more about than anyone in this room.

H.R. 2999 is fairly simple. It proposes a complete ban on the importation of all elephant products of both African and Asian elephants. Permits are available for "scientific purposes or to enhance the propagation or survival of any species of elephant." The stated purpose of the bill is "to eliminate the role of the United States in creating the world demand for elephant products, including but not limited to ivory." The bill would also require the U.S. to call for a worldwide ban in elephant products trade, through CITES.

This bill contravenes all of the principles which we discussed above. It makes assumptions about the effectiveness of a ban that are not supported by facts. It is a ban that would be adopted without consultation with the range countries it affects. Its avowed purpose is to destroy the value of the elephant. We believe that this will have exactly the opposite purpose that was intended. We believe that it will drive up the price of illegal ivory, while denying a market to legal ivory. It will make the poaching and marketing of ivory much harder to control. and it will take away the incentive to continue harvesting programs like that in Kruger, Wankie and other national parks in Africa.

H.R. 4849 also makes some assumptions that are not supported by the facts. The major operative effect of this bill would be to ban ivory trade from so-called intermediary countries. Apparently the prime target for this ban is Hong Kong, the largest ivory carving center in the world. This ban is based on the assumption that Hong Kong is a major problem in the control of the ivory trade. While it is true that at one time Hong Kong did not have complete controls over the incoming raw ivory, that problem has been corrected. We have been informed, just two weeks ago, by the Ivory Control Officer for CITES, that Hong Kong will be in full compliance with the CITES requirements by July 1.

H.R. 4849 makes a further assumption that by banning the trade from Hong Kong and similar places, the carvers of ivory will move their operations to Africa and this will make it easier to control the trade. We are not aware that there is any "hard" information that the carvers would move to Africa. It is our understanding, based on discussions with the Ivory Control Officer of CITES, that in the one instance where some carvers have moved to Africa, it has resulted in more, not less, difficulty in controlling the trade. He also felt that in general it would be more difficult to control

the trade if all of the carvers were in Africa.

Finally, we object to H.R. 4849 because it could potentially disrupt the current ivory market with unknown, but possibly disastrous consequences on the value accorded to elephants in the range countries. If, for example, the ivory carvers from Hong Kong do not move en masse to Africa, or if the move is slow and piecemeal and the ivory market is seriously disrupted, the value of the elephant could be severely affected. Either the black market prices of raw ivory going to "rogue" carvers would shoot up, or the overall value of ivory would decline. In either case, existing controls would be difficult to maintain. We might be able to agree more readily if H.R. 4849 had suggested some serious fact-finding before imposing a ban on ivory from intermediary countries.

The aspect of H.R. 4849 that we do like is that it does not contain provisions allowing private organizations to push for bans, as does the Committee Print. We have had far too much experience with the wildlife politics of Washington to feel comfortable with such a provision.

The Committee Print is the most preferable of the three items before us today. It allows trade in elephant products to continue, but it would tax the trade. The tax would go to support elephant conservation projects which are suggested by CITES, by African countries, and by others.

This tax would fall on sportsman importing ivory as a sport hunting trophy as well as on the commercial ivory trade. We, as representatives of many such sportsmen, do not object to paying our share of a constructive and necessary conservation program. As I pointed out earlier, we have always done so.

Some groups have argued that a tax on the trade would legitimize the trade, and therefore they oppose the tax. This is a ridiculous view from a conservation perspective. It comes from those who think that the solution to every wildlife problem is to ban the use of the wildlife. This is an unrealistic view for several reasons. First, neither we nor any other country are willing to commit the resources necessary to effectively implement a ban. This is especially true where the commodity has a high value, as does ivory, because the demand for it is so great. The only probable result of the ban will be to push all the trade underground, where it will be impossible to control. Second, if the ban did work to any extent, it would rob the wildlife of its value to the local people. In countries where the people have urgent needs for use of the land, the wildlife will inevitably lose out if it has no value.

We have two specific comments on the Committee Print. First, there should be a provision allocating funds specifically to the CITES Ivory Control System. Second, the provisions of Title II (Moratoria on Importation of African Elephant Products) should be

eliminated or drastically modified.

An earlier draft of the Committee Print had a provision that allocated a certain portion of the tax revenues to the CITES Secretariat for support of the Ivory Control System. We prefer that provision to the system in the current Print, where CITES would be just one of many petitioners for the available funds. The international ivory trade is here and it is real. Even a ban on U.S. participation in the trade will not eliminate the trade. The CITES Ivory Control System is the only measure available to try to control the legitimate ivory trade and to eliminate, to the greatest practicable degree, the illegal ivory trade. It must be adequately supported. The CITES Parties should be supporting the Ivory Control System, but as with many government efforts, they are quick to set up projects which they are slow to support with hard cash. This includes the United States. Therefore, if we are going to have a tax on ivory in order to carry out elephant conservation programs, financial support of the CITES Ivory Control System should be the first priority on our list of items to fund. Without some kind of control over the ivory trade, the conservation efforts of African countries will have little effect.

The Committee Print contains, in Title II, provisions which allow the Secretary of the Interior to impose several different kinds of moratoria. It also allows any person to petition for such moratoria. This is a compromise provision for those who think that moratoria are the way to go. We can only reiterate our views on bans and moratoria. They are usually political gimmicks which do not have any constructive value in the real world. They are also a form of "ecological imperialism" and they harm our attempts to work with the wildlife managers of the range countries. Therefore, it would be an extraordinary circumstance that would require such bans or moratoria. For example, it should require evidence of a complete collapse of efforts to control legitimate ivory trade and a run-away illegal trade that is immediately threatening elephant populations. It should also require a request from the range countries to impose a ban in order to help assist their efforts, or evidence that they had completely abdicated any responsibility for conservation of elephants.

If these events came to pass, this Subcommittee would be in a position to hear testimony and take proper action. We do not agree, therefore, that the Secretary should be given the authority to impose moratoria. We especially do not believe that petitions from "any person" should be authorized. This will only allow the "ban advocates" to bring political pressure on the Secretary one year from now. We would rather see this Subcommittee exercise oversight on the issue.

Although we are not testifying in person today, we would be glad to answer any questions which the Subcommittee may have, and to assist in any way that we can.



GAME CONSERVATION INTERNATIONAL

"Game Coin"

HARRY L. TENNISON President
444 FORT WORTH CLUB BLDG.
FORT WORTH, TEXAS 76102
U.S.A.

May 24, 1988

AREA CODE 817
235-1942 or
235-1580

Congressman Jack Fields
Capitol Hill
Cannon Bldg.
Room 413
Washington, D.C. 20515

Dear Congressman:

Having traveled in Africa, India and the Far East for the past thirty-five years, I have noticed that the trade in Ivory has increased, since the early seventies, although the number of elephant taken legally has decreased. This is due to the increased poaching, where Elephant hunting has been stopped.

In visits to Tokyo, Hong Kong, Singapore, New Delhi, London and Paris, I have seen thousands of pieces of Ivory for sale that would outnumber the pieces, or pounds of ivory taken legally by one hundred to one. All of the shops I have visited, of course, can produce a document, saying that the ivory is legal, but knowing the number of elephant taken legally and the amount of ivory shipped from countries such as Ruanda, where they do not hunt Elephant it is easy to see that simply putting a ban on all ivory coming into the United States would in no way stop the poaching and transferring of ivory from an ivory producing country to one that does not produce ivory.

From my observations and the observations of others who like myself have watched with dismay the population of elephant decrease at an alarming rate the past fifteen years it is our thinking that only ivory from an ivory producing country should be allowed to be exported.

A Ban on all worked or raw ivory from any country which does not have a native population of elephant would be the most effective way to stop the illegal transportation of ivory from one country to another, especially those countries that do not recognize the fact that by their illegal trade and shipments, the Elephant could disappear the same way the Rhino is disappearing. This means that only those countries that do allow Elephant hunting or do cropping of Elephant due to damage they have inflicted on crops or people would be allowed to do the shipping of any sort of ivory.

This would mean that only Zimbabwe, Ethiopia, South Africa and South West Namibia could export ivory in any form. Important to this is the fact that so many of the local people make their living out of carving the ivory that has been taken by Government on control, as it is necessary at times to control the destruction done by Elephant, due to the fact that over population has cut down on their ordinary range and they must forage outside their regional boundries for food.

Congressman Jack Fields
May 24, 1988
Page 2

Very few, if any ivory taken by a hunter is ever offered to an open market to be cut up for carving, so practically all of the ivory being carved today is poached ivory, with the exception of the small quantity taken by culling done by Government in the countries where the Elephant, to some extent, must be controlled.

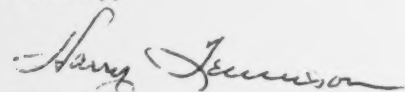
Depriving the poacher of any revenue will put a stop to this illegal activity. This can be done if only ivory from a country that has a healthy Elephant population can be legally imported. As very few Elephant are taken legally by hunters and a small amount by culling by Government this would certainly save the Elephant as there just would not be a market for the ivory.

The recommendations are as follows:

- 1) A straight-forward ban on all worked and raw ivory from those countries that do not have a native population of African Elephant.
- 2) Only ivory taken legally by hunting from a country which allows hunting of African Elephant to be allowed to be imported into the United States.
- 3) Increase the anti-poaching teams already in existence (The Selous Anti-Poaching Project of Game Conservation International for one) which reward informers and Game Rangers who capture poachers.
- 4) Do not put a heavy tax on ivory as this would only increase the value and mean a higher price to the poacher and would encourage smuggling of ivory into the United States.

Thank you for your consideration of the ideas presented here. They are the combined efforts of all the people I could talk to who have a knowledge of African Elephant and the Ivory Trade. I will be in Africa in June and will travel to four countries looking for answers to the Ivory Trade and will report to you when I return in July.

Sincerely,



Harry Tennison

STATEMENT OF RONALD E. LAMBERTSON, REGIONAL DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, CONCERNING PROTECTION OF THE AFRICAN ELEPHANT.

June 22, 1988

Mr. Chairman, thank you for the opportunity to discuss protection of the African elephant.

My name is Ronald E. Lambertson. I am Chairman of the Standing Committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Standing Committee acts on behalf of the Parties to CITES and has particular responsibilities with regard to the African elephant and the ivory trade. I am also the Regional Director for Region 5 of the United States Fish and Wildlife Service.

In the United States, international trade in the African elephant is controlled by the Endangered Species Act (Act) and CITES.

Under the Service's regulations implementing the Act, the elephant is listed as threatened, with a special rule that limits imports of raw ivory from African elephant range states that are CITES Parties, or from intermediary countries that are CITES Parties. These regulations were promulgated in 1982.

The African elephant was listed under Appendix II of CITES effective in 1977. Accordingly, export permits must accompany shipments leaving African range states. These permits are based on findings of scientific authorities

in the range states that export will not be detrimental to the survival of the species. In 1983, the CITES Parties decided to require the marking of raw ivory to more closely tie exported tusks to the accompanying export permits.

The most significant CITES action, with regard to the elephant, occurred in 1985, when the Parties adopted the CITES Ivory Quota and Trade Control System (System).

In order to trade legally within the System, Parties and cooperating nonparties must set an annual raw ivory export quota and mark all raw ivory intended for export. In addition, tusk export information is sent to the Secretariat's Ivory Trade Control Unit in Switzerland, which prenotifies the importing country, thereby enabling verification of the shipment when it arrives. This data is also put into a computer, located in Cambridge, England, which is programmed to check for duplicate permits and tusk numbers. The Secretariat tracks the raw ivory from country to country until it is converted into worked ivory.

The System became operational in March 1986. In 1987, at their Ottawa meeting, the Parties approved measures to help enforce and refine the system. The IUCN's African Elephant and Rhino Specialist Group opposed the imposition of a trade ban and supported this upgrading of the System.

While it has problems, the CITES System represents our best chance for turning around the decline of the African elephant. The System is new, but it has already shown some positive results.

The Secretariat reports that illegal raw ivory is selling at an average of 50 percent less than legal raw ivory. This indicates that the System is making it more difficult to trade illegal ivory.

The Secretariat also reports that buyers have been calling the Secretariat to inquire about the legality of particular lots of ivory being offered for sale. For example, this has happened with a large cache of ivory currently in Burundi. In this particular case, the Secretariat has notified all Parties and participating nonparties not to accept this illegal Burundi ivory. The Service banned all importations of this ivory and notified intermediary countries that if they deal with it we would invoke the existing emergency regulation provisions of the Act to ban all ivory importations from them. This latter measure caused Hong Kong, a major reexporter of worked ivory, to take steps to control imports of worked ivory, something we have been urging them to do for some time.

Besides Hong Kong, other countries have been tightening their elephant controls. Tanzania has recently made some seizures of raw ivory and plowed back the proceeds of sale into their wildlife division.

Belgium, which used to be a major center of distribution for illegal ivory, is now very scrupulously enforcing the CITES System. France has also improved.

The CITES Secretariat is currently considering rescinding the quotas of two countries for failure to comply with requirements of the System.

I have alluded to the System's problems. Let me be more specific. First, for the System to work, the Ivory Trade Control Unit in the CITES Secretariat must be fully funded. This Unit should have full computer and travel capabilities. It must be able to stay in close contact with the managers of the African elephant in the range states. Currently, funding for the coordinator's position is hanging by a thread; the job is renewed on a month-to-month basis. Travel funding is zero. The Coordinator must be able to continue to meet with the wildlife managers of the elephant in the range states in order to maintain their cooperation in making the System work, including setting export quotas that are realistic and that adjust for the impact of illegal hunting.

Poaching, of course, is pivotal to the whole question of the illegal ivory trade. No matter which regime we follow -- trade controls, export quotas, total or partial trade bans -- making a substantial impact on poaching is vital to success. At a recent meeting of several elephant range states and World Wildlife Fund-International, discussion indicated growing interest in devoting substantial resources to antipoaching program activities.

Second, although all countries but one are submitting quotas on the calculation sheets furnished by the Secretariat, the quality of the data and commitment by the range states to respond to the conservation needs of the elephants needs to be improved.

In this regard, some have asked whether the export quota is reduced by the amount of ivory illegally taken. Ivory illegally taken and confiscated

during the quota year in excess of the amount predicted as illegal offtake would be allowed to be exported after notice to the Secretariat. If this amount causes the elephant take to rise to unacceptable levels in relation to population estimates, then the quota would be reduced.

Third, a question often asked is whether illegal ivory should be traded after it has been confiscated, and if trade doesn't encourage more illegal taking. The Parties have said that, in general, confiscated parts and derivatives of Appendix II animals may be sold and the proceeds used to benefit the enforcement and administration of CITES (Resolution Conf. 4.18). More recently the Parties have asked the African Elephant Working Group to examine disposal procedures and disposition of proceeds from sale of confiscated ivory outside its country of origin (Resolution Conf. 6.12). I have asked the Working Group to provide us with advice on this issue in the context of the Burundi ivory situation.

Fourth, another problem is the need for better control of the worked ivory trade. Once a tusk is carved into final form, it is no longer covered by the special ivory trade controls which rely heavily on marking the raw ivory. We also need to find a method of marking worked ivory so that it serves identification purposes without seriously devaluing the ivory.

The CITES Parties have asked the Secretariat to study the worked ivory trade in Africa and recommend ways to prevent illegally taken raw ivory from being carved before it leaves the country of origin, thus by-passing all of the System's controls.

In light of the strong international effort being made to better control the international ivory trade, I think that now is not the right time to impose a ban on the United States trade in African elephant ivory. It would send a message to other countries, particularly the African range states, that could weaken their resolve to faithfully implement the System at a time when they need moral, financial and technical support to make it work.

Ivory imports into the United States represents a small portion of the ivory exported from African countries. If we were to ban that trade, it could probably be redirected to other countries without substantially disrupting the market.

The best way to help the African elephant is to support the relatively young CITES Ivory Quota and Trade Control System and the African countries that are trying to make it work. They should be given a sufficient opportunity to show what they can do. In the meantime, the Service will continue to keep a close eye both on the trade and the biological status of elephant population in the wild. We will take protective measures under existing Endangered Species Act provisions and exert leadership under CITES if the System is ineffective in protecting the African elephant.

This concludes my prepared statement, Mr. Chairman. I will be happy to try to answer any questions you may have.

Key Points for African Elephant Conservation

1. Strong support for the CITES Ivory Quota and Trade Control System allowing adequate time for the System to prove itself
2. Selective bans on ivory trade with countries that do not comply with the System
3. Substantial assistance to African range states for conservation of the elephant including a strong effort to reduce poaching
4. Improved controls on worked ivory

(Submitted by the U.S. Fish and Wildlife Service)

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DEPARTMENT FOR EAP/CH AND DES

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E.O. 12356: N/A
 TAGS: SEW, HK
 SUBJECT: IVORY TRADE CONTROLS

REFS: A) STATE 135416

3. ON MAY 19 CONGEN RECEIVED THE FOLLOWING LETTER FROM THE HONG KONG TRADE DEPARTMENT CONFIRMING THE ACTIONS REPORTED REF C WHICH ARE BEING TAKEN TO CLOSE THE LOOPHOLE ON WORKED IVORY:

2. BEGIN TEXT.
 THE HONG KONG GOVERNMENT SHARES THE CONCERN OF THE UNITED STATES GOVERNMENT ABOUT THE NEED TO PROTECT THE AFRICAN ELEPHANT POPULATION. THE FOLLOWING PARAGRAPHS SUMMARIZE THE STEPS TAKEN BY THE HONG KONG GOVERNMENT TO REGULARISE THE TRADE IN AFRICAN ELEPHANT IVORY.

3. IN HONG KONG, RAW IVORY (INCLUDING CUT PIECES, SCRAPS, WASTE AND POWDER) AND SIMPLY PREPARED IVORYWARE ARE SUBJECT TO VERY STRICT LICENSING CONTROL UNDER THE ANIMALS AND PLANTS (PROTECTION OF ENDANGERED SPECIES) ORDINANCE CAP. 187. UNDER THE ORDINANCE, IT IS AN OFFENCE TO IMPORT OR EXPORT ELEPHANT TUSKS OR IVORY ITEMS EXCEPT UNDER AND IN ACCORDANCE WITH A LICENSE OBTAINED IN ADVANCE FROM THE AGRICULTURE AND FISHERIES DEPARTMENT. LICENSING POLICY IS IN STRICT COMPLIANCE WITH THE CITES PRINCIPLES AND LICENSES WILL ONLY BE GRANTED FOR THE IMPORT OR EXPORT OF IVORY OBTAINED FROM LEGAL, CITES-APPROVED SOURCES. MAXIMUM PENALTIES FOR ILLEGAL IMPORT OR EXPORT OF IVORY UNDER THE ORDINANCE INCLUDE A FINE OF HKD 5,000 USD 641 FOR A FIRST OFFENCE AND HKD 10,000 USD 1282 PLUS IMPRISONMENT FOR 6 MONTHS FOR SECOND AND SUBSEQUENT OFFENCES. IN ADDITION, THE ORDINANCE PROVIDES FOR MANDATORY FORFEITURE OF IVORY UPON CONVICTION. ARRANGEMENTS ARE BEING MADE TO INCREASE THE MAXIMUM PENALTIES UNDER THE ORDINANCE.

4. HONG WAS NOT YET AUTHORIZED ANY IMPORTATION OF IVORY FROM BURUNDI SINCE 1981 EXCEPT TUSKS REGISTERED WITH THE CITES SECRETARIAT BY 1ST DECEMBER 1986. WE WILL CONTINUE TO BAN THE IMPORTATION OF UNREGISTERED

5. URGENT ARRANGEMENTS ARE BEING MADE BY THE HONG KONG GOVERNMENT TO AMEND THE LOCAL LEGISLATION TO ~~STRICT~~ CONTROL TO INCLUDE THE IMPORT OF WORKED IVORY WHICH THE ORIGINALS AND PLANTS (PROTECTION OF ENDANGERED SPECIES) ORDINANCE. IT IS ANTICIPATED THAT THE EXTENDED LEGISLATION WILL TAKE EFFECT IN JULY THIS YEAR AND ALL IMPORT SHIPMENTS OF ALL FORMS OF WORKED IVORY WILL THEREAFTER BE SUBJECT TO VERY STRICT LICENSING CONTROL.

6. THE EXPORT OF WORKED IVORY FROM HONG KONG IS CONTROLLED BY THE ISSUE OF CERTIFICATES OF ORIGIN (CERTIFICATE OF HONG KONG ORIGIN AND CERTIFICATE OF ORIGIN FORM A, BOTH OF WHICH ARE ACCEPTABLE CITES PERMITS) BY THE TRADE DEPARTMENT FOR IVORY ITEMS WORKED IN HONG KONG AND BY THE ISSUE OF RE-EXPORT CERTIFICATES BY THE AGRICULTURE AND FISHERIES DEPARTMENT FOR IVORY ITEMS BOTH CARVED PARTIALLY IN HONG KONG AND CARVED WHOLLY OUTSIDE HONG KONG. THE CRITERIA FOR GRANTING SUCH CERTIFICATES ARE IN STRICT COMPLIANCE WITH CITES REQUIREMENTS. CERTIFICATES OF ORIGIN ARE REQUIRED FOR CUSTOMS CLEARANCE PURPOSES FOR HONG KONG'S MAJOR EXPORT MARKETS INCLUDING THE USA. IN SUPPORT OF THE APPLICATION FOR A CERTIFICATE OF ORIGIN, THE APPLICANT MUST PRODUCE A CORRESPONDING IMPORT LICENSE INDICATING THE ORIGIN OF THE RAW IVORY FROM WHICH THE ITEM WAS CARVED. PROVIDED THAT THE RAW IVORY COMES FROM A LEGITIMATE SOURCE IN ACCORDANCE WITH THE CITES PROVISIONS, THE DEPARTMENT ISSUES THE CERTIFICATE OF ORIGIN WHICH BEARS THE DEPARTMENT'S ENDORSEMENT TO THE EFFECT THAT THE WORKED IVORY IS MANUFACTURED FROM RAW IVORY OF LEGITIMATE SOURCES. THE ENDORSEMENTS ARE SET OUT IN THE APPENDIX TO THIS LETTER. MOREOVER, OFFICERS OF THE CUSTOMS AND EXCISE DEPARTMENT INSPECT IVORY FACTORIES REGULARLY TO ENSURE THAT THERE IS NO BREACH OF THE LOCAL LEGISLATION AND THE DETAILS CONTAINED IN CERTIFICATES OF ORIGIN ARE TRUE AND CORRECT. THE ABOVE MEASURES ARE TO ENSURE THAT THE CERTIFICATES COME FROM LEGAL AND CITES-APPROVED SOURCES AND THAT NO POACHED IVORY WILL BE ABLE TO FIND ITS WAY THROUGH HONG KONG INTO THE INTERNATIONAL MARKET.

7. APPENDIX

- HONG KONG ORIGIN AND CERTIFICATES OF ORIGIN FORM A
 - COVERING WORKED IVORY EXPORTS TO THE U.S.A.

(A) FOR RAW IVORY ORIGINATING IN A CITES PARTY
 - COUNTRY:

- "I HEREBY CERTIFY THAT IVORY PRODUCTS COVERED BY THIS DOCUMENT ARE MANUFACTURED FROM IVORY ORIGINATING IN A COUNTRY WHICH IS CURRENTLY A MEMBER OF THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA. EXPORTS OF THESE PRODUCTS ARE IN ACCORDANCE WITH THE LAWS OF HONG KONG AND WILL NOT BE DETRIMENTAL TO THE SURVIVAL OF THE AFRICAN ELEPHANT (LOXODONTA AFRICANA) IN THE WILD."

(B) FOR RAW IVORY ORIGINATING IN BURUNDI AND REGISTERED WITH THE CITES SECRETARIAT BEFORE 1 DECEMBER 1986:

HEREBY CERTIFY THAT IVORY PRODUCTS COVERED

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- BY THIS DOCUMENT ARE MANUFACTURED FROM IVORY
- ORIGINATING IN BURUNDI THAT HAS BEEN REGIS-
- TERED WITH THE CITES SECRETARIAT BEFORE
- 1 DECEMBER 1989. EXPORTS OF THESE PRODUCTS
- ARE IN ACCORDANCE WITH THE LAWS OF HONG KONG
- AND WILL NOT BE DETRIMENTAL TO THE SURVIVAL
- OF THE AFRICAN ELEPHANT (LOXODONTA AFRICANA) IN
- THE WILD."

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03 FOR RAW IVORY ORIGINATING IN OTHER CITES-
- APPROVED SOURCES:

- "I HEREBY CERTIFY THAT IVORY PRODUCTS
- COVERED BY THIS DOCUMENT ARE MANUFACTURED
- FROM IVORY SOURCE APPROVED BY CITES.
- EXPORTS OF THESE PRODUCTS ARE IN
- ACCORDANCE WITH THE LAWS OF HONG KONG AND
- WILL NOT BE DETRIMENTAL TO THE SURVIVAL OF
- THE AFRICAN ELEPHANT (LOXODONTA AFRICANA) IN
- THE WILD." END TEXT. KOBLE

(Submitted by the U.S. Fish and Wildlife Service)

IVORY IMPORTATIONS FROM CERTAIN AFRICAN COUNTRIES

After identifying the specific shipments referenced in the question, the document packages were analyzed and the following information is provided by Country of Origin.

Zaire

In 1983, two shipments of worked ivory (November 15 and December 22) were both accompanied by CITES export permits issued by Zaire that match the copy of an official Zaire permit that was provided to the CITES Secretariat. The permits or other accompanying documents identify the ivory as worked ivory.

Four additional shipments in 1983 (March 10, May 28, June 16, and September 1) were all transported as personal baggage, and were therefore exempt from the CITES permit requirement.

Also in 1983, two shipments (April 13 and July 13) were imported from Hong Kong. The shipment of 188 "tusks" is identified on the permit as 188 pieces of ivory carvings. The second shipment of 4,740 "tusks" has no accompanying documents. As it was exported from Hong Kong by a jewelry company, and because the shipment contains so many pieces, it is extremely unlikely that this was a shipment of tusks.

In 1984, one shipment on June 12 shows 7,220 ivory chips on the declaration. The accompanying Hong Kong permit states that the shipment contains jewelry, not tusks as erroneously recorded in the computer.

Also in 1984, two shipments (May 1 and November 7) were imported from Zaire. Both were accompanied by CITES export permits issued by Zaire that match the copy of an official Zaire permit that was provided to the CITES Secretariat. One of them also has a document issued by Zaire stating that the shipment, although initially refused clearance by the U.S. because the tusks had no marking, should be treated as legal.

In 1986, 599 tusks were imported. Of these, 142 were refused clearance and re-exported. Four shipments were cleared by inspectors because the permits looked valid, however new information has resulted in an investigation being opened since it now appears that these permits were fraudulent. In addition, 116 of these tusks have been seized and forfeiture is pending.

Angola

In 1983, five shipments (February 20, June 16, July 8, September 8, and September 11) were all transported as personal baggage, and were therefore exempt from the CITES permit requirement.

India

In 1984, one shipment on August 7, was accompanied by an Indian CITES re-export permit. It states that the species was *Loxodonta africana*, that it was worked ivory, and that it originated from Zimbabwe. On the declaration form, the importer incorrectly identified India as the country of origin, obviously meaning India was the country from which his shipment came.

Central African Republic

In 1986, 10 tusks were imported in six shipments (January 7, January 22, March 14, March 31, April 4, and November 1). None were directly imported from the Republic. Two tusks were imported from Spain, which had imported them in 1975; they were accompanied by a Spanish CITES re-export permit. Five shipments comprising 8 tusks were imported from Hong Kong, accompanied by Hong Kong permits.

Ethiopia

In 1986, the U.S. imported 8 tusks in four shipments (February 12, June 17, August 14, and October 21). All were trophies, and all were accompanied by Ethiopian permits.

Liberia

In 1986, two carved tusks were imported on June 13. They were accompanied by a Liberian CITES export permit with a security stamp, and accompanying documents stating that the tusks were acquired prior to 1985. The permit matches one sent to the CITES Secretariat as an example of a legitimate permit.

Sudan

In 1986, two tusks were imported and were accompanied by a Sudanese CITES permit with a security stamp and accompanying documents stating that the tusks were acquired in 1984. The permit matches one sent to the CITES Secretariat as an example of a legitimate permit.

South Africa

In 1986, the U.S. imported 86 tusks. Thirty-one of those were carved tusks, and were not treated as raw ivory. The additional 84 Kgs were from 4 trophy tusks. All of these were legal shipments.

NOTE: Although some of these shipments may not have been in strict accordance with the Ivory Quota Control Procedures, most of them were not illegal according to U.S. law. Except for personal imports, which are exempt, every other shipment that we have identified was accompanied by what appeared to be legitimate CITES export or re-export permits, or acceptable documentation from non-Party countries. The Zaire CITES permits superficially appeared to be legitimate. The Service cannot verify every permit that is presented at the time of importation. When we received information that some of the Zaire tusks were probably illegal, we took prompt action to remedy the situation.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/OMA/F88-02738

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Honorable Gerry E. Studds
Chairman, Subcommittee on Fisheries and
Wildlife Conservation and the Environment
Committee on Merchant Marine and Fisheries
House of Representatives
Washington, D.C. 20515-6230

Dear Mr. Chairman:

Thank you for your letter of July 1 to Mr. Ronald E. Lambertson requesting an answer to questions from Congressman Bob Clement to better complete the record of the June 22 hearing before the Subcommittee on Fisheries and Wildlife Conservation and the Environment regarding elephant conservation legislation.

In Mr. Lambertson's testimony, he indicated several problems with the current Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) Ivory Trade Control System (System). They included the need for adequate and long term funding of the Ivory Trade Control Unit in the Convention Secretariat, poaching in the elephant range states, improved implementation of conservation plans that take into account poaching and the worked ivory trade.

He also noted several indications that the System is working, although not yet to a satisfactory degree. These included a 50 percent price differential between legal and illegal raw ivory, potential buyers checking the legality of offered ivory with the Convention Secretariat and improvement of elephant ivory controls in several important importing countries, especially Hong Kong. The Fish and Wildlife Service (Service) believes that the System is still the best hope for control of the ivory trade. It has the support of the international community as a whole and many of the specific African nations which have elephant populations. The goal of the Service now is to support the Convention Secretariat and all Convention party nations to fully implement the System and to develop a system of sanctions against nations which are not in compliance.

One method of increasing the United States role in this effort would be to adopt stricter domestic ivory trade control measures. Under existing authority in the Endangered Species Act or under new legislation, the Service could consider modifying the current special rule on African elephant ivory [50 CFR 17.40 (e)] to bolster the System, including adding the possibilities of selective bans on trade from particular nations which are disregarding the system. It is possible that the mere existence of the threat of such bans might be sufficient to bring some nations into better compliance with the System.

Honorable Gerry E. Studds

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However, it would be unrealistic to think that unilateral action by the United States could by itself bring ivory poaching in Africa under control by any particular date. In fact, precipitous efforts, if not closely coordinated with the international community, could simply eliminate the United States from having any influential role in the ivory trade. Carefully coordinated action is necessary, in the Service's view, to give all nations involved in the ivory trade the proper mix of incentives to make improvements and sanctions if problems are not being resolved.

In addition, it is unlikely that poaching can be brought under control without a substantial infusion of additional resources into the wildlife authorities of African range states. The Service cannot support a tax on ivory imports. Rather, the Service is encouraging organizations such as the World Wildlife Fund and the International Union for the Conservation of Nature and Natural Resources in efforts to assist African nations in developing and implementing elephant conservation plans, with emphasis on antipoaching programs.

Please feel free to contact me with any further questions you might have concerning the conservation of the African elephant.

Sincerely,

Sam Mailer
Acting DIRECTOR

STATEMENT OF IAIN DOUGLAS-HAMILTON ON
THE ELEPHANT PROTECTION ACT AND THE ELEPHANT CONSERVATION ACT
TO THE HOUSE SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT

June 22, 1988

THE DECLINE OF THE ELEPHANT

African elephants are declining at a far faster rate than most people realize and the cause is excessive killing for ivory. In the past few years, elephants appear to have been virtually eliminated in certain areas within Sudan, Chad, the Central African Republic, and Zaire, and have been greatly reduced in Eastern, West and parts of Southern Africa. Exceptions to this general rule are found in a few southern African countries. The weighted regional trends vary from -18% per annum for a sample of northern savanna populations from Somalia to Senegal, and -8% in East Africa, to near stability or increase in the well protected areas in southern Africa. There is no reason to think that the trends in the vast uncensused forests are any better than those of East Africa.

Over the last 12 years I have counted most of the major elephant population in East Africa, and farther afield in

-2-

Zambia and Central Africa. Each count has involved local participation and support has come from a variety of donors including some leading organizations like World Wildlife Fund, New York Zoological Society and the African Wildlife Foundation here today. Where possible I have gone back and recounted. In this period I have also been responsible for compiling an Africa wide database on elephant range, status and trends for the Species Survival Commission of the IUCN, and its specialist groups that have dealt with the African Elephant.

Last year this information was entered into the UNEP geographical computer, which using sophisticated, modelling techniques calculate elephant estimates for the uncensused parts of their range in time for the CITES conference in Ottawa. The elephants range measured 5.9 million square kilometers, divided 46% in Central Africa, 25% in Eastern Africa, 25% in Southern Africa and 5% in West Africa. Regional estimates were 24,000 for West Africa, 176,000 for Eastern Africa, and 236,000 for Southern Africa. For Central Africa which is largely forested, the only raw data were from high density samples which were thought to be above average. Dr. Richard Barnes is working on the problem of census technique at present and a large scale forest survey will be launched in due course supported by the EEC. For the meanwhile any valid extrapolation for the forest, which comprises one third of the elephants' range is guesswork. It

-3-

is therefore impossible to say how many elephants there are on the continent of Africa, but there have been recent guesses around the level of 750,000 (AGRSG, 1987).

The computer extrapolation, which makes up much of the estimates, are all thought to be maxima as the biases in the technique lead towards overestimation. Subsequent counts have made me skeptical that there are in fact that many elephants in these regions. For example, Ruaha Rungwa's elephants which we had input at 22,000 on the assumption of a 50% decline were later revealed to have declined by 72% to 12,500 (Hirji, 1988).

Likewise the Mkomozi elephants which were 2,000 in 1972 and 670 in 1978 were input at 193 for 1987, but later counted at only 93 this year.

Full details of elephant status and trends in which I have been involved are contained in Oryx (Douglas-Hamilton, 1987), in a report to UNEP (Burrill and Douglas-Hamilton, 1987), and in a recent publication in Swara magazine entitled "The Great East African Elephant Disaster" (Douglas-Hamilton, 1988), which I submit for the record.

The first real indication of a surge in elephant poaching was noticed in several districts in Kenya in 1972 following a rise in the price of ivory. Ivory poaching swiftly spread

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into the national parks of Kenya, northern Tanzania and Uganda. By the mid-seventies the huge populations of Selous and Ruaha in Tanzania were still untouched, but they too suffered severe losses in the following decade.

The table below summarizes East African losses:

<u>Country*</u>	<u>Number of Elephants</u>		<u>Decline</u>
	<u>1973</u>	<u>1987</u>	<u>Numbers (%)</u>
Kenya	130,570	19,749	-110,821 (-85%)
Uganda	17,620	1,855	- 15,765 (-89%)
	<u>1977</u>	<u>1987</u>	
Tanzania	184,872	87,088	- 97,784 (-53%)

*Estimates include almost all the elephants in Kenya and Uganda, and about 75% of those in Tanzania.

Particularly significant declines include the following:

- In the 1970's, Amin's army looted the Ugandan National Parks for ivory, including the Murchison Falls Park, where on the South Bank, elephants declined from 9,000 to 1,700 in three years, and have since virtually disappeared (Douglas-Hamilton, 1987).

- In the Selous Game Reserve in Tanzania, elephants declined from 109,000 in 1977 to 55,000 in 1986 (Douglas-Hamilton, et al, 1986).
- In the Tsavo National Park in Kenya, 4,327 elephants were counted in February 1988, a 75% decline since the last major survey in 1972 (Olindo, Douglas-Hamilton & Hamilton, 1988).

Recently, even supposedly small and well protected elephant populations have collapsed. For example, the elephants of Lake Manyara live in a small and isolated park and I have been studying them for 20 years, and have flown periodic aerial surveys. At one time I knew 400 of them individually. The numbers counted from the air gently increased from about 300 in 1967 to 485 in 1981, but in the last two years over half the elephants have been lost. In November last year we counted 181 live elephants and 94 dead. Of the 25 or so old matriarchs that I knew there were only three left, and no large bulls survived. It was as if a whole elder generation had been wiped out.

The drop of 25% per year over two years is far worse than the national average. I am convinced we cannot take the safety of elephants for granted. There is no safety in numbers, nor in the supposedly protected areas.

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Out of all of East Africa's populations only those of Tarangire in Tanzania, Mara and Amboseli and Laikipia in Kenya have shown increases. These welcome exceptions to the general rule are explained by refugee elephants seeking the safety of the parks.

In the central African savannas the situation is worse. In 1985 we counted the northern parks of the Central African Republic, 60,000 km² of uninhabited wilderness. After ten days we calculated from our samples that there were 4,000 live elephants and 7,000 carcasses and skeletons. The decrease since a survey four years earlier was 80%. These were the most important parks in Central African Republic, and the fate of these elephants was the end game of a tragedy played out over the vast savannas on the northern savannas of Central Africa, Chad and Sudan.

Further south is the edge of the equatorial forest, a particularly rich ecological transition zone with high rainfall, lush forest and dense grass. It was believed to support the highest densities of elephants anywhere in Africa, estimated by some authorities at several million animals in the late seventies (Watson, pers comm). Although surveys are rare, those that exist all point in the same direction --down. I have also flown strip counts along the boundary of Central African Republic and Zaire in 1975 and again in 1985. From my own experience and from counts made

by colleagues in the Garamba Park, and reports of hunters we know that this "Eldorado" of the elephants has been devastated, with losses estimated at 70 to 80% over ten years (Douglas-Hamilton, 1987).

West Africa has less than 3% of the continents' elephants which are fast declining, increasingly fragmented and endangered both by ivory poaching and human encroachment on their habitat.

In Southern Africa, Angola and Mozambique both have populations which are thought to be swiftly declining. In 1979 I estimated 150,000 in Zambia, but there were thought to be only 41,000 in 1987 (AGRSG, 1987). Only in Zimbabwe, Namibia, Malawi, Botswana and South Africa are elephants stable or increasing. They number in total just over 100,000 animals. Poaching is not yet serious and sport hunting is allowed.

THE CITES QUOTA SYSTEM

The CITES Ivory Quota agreement, conceived in 1984, came into effect in 1985 and was intended to control the trade in ivory. In theory strict controls on all ivory were to be instituted. Each tusk was to be registered at source, and tracked by a computer. Rapid communications were to be set up between the management authorities of producer and

-8-

consumer countries in order to catch illicit traders. In practice the computer registration happens, but with a few notable exceptions the rapid communication and the crime busting capability has not materialized.

Yet it was claimed in 1986 by the CITES secretariat that the system had already reduced poaching. This simply is not true. The surveys in which I have participated show how ivory poaching has continued to decimate elephant populations.

As a field biologist I am perplexed by all the claims made by the trade that the offtake is sustainable. I only know that when I fly surveys each time I find fewer elephants left alive, and thousands of carcasses, some killed in the last few years and some recently. I know that it is the ivory trade which is responsible, and even as we talk, elephants are being killed for ivory.

The quota system is not working. In 1986 it was estimated that only 22% of the ivory traded on the world market was legal. It hasn't worked in the past and all the signs are that it will not work in the future. There are too many middlemen. There are too many ways for the ivory to get into the world trade. For example Hong Kong allows worked ivory imports without permits. It is well known that some leading ivory traders have deliberately set up factories in Dubai

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with well trained carvers from Hong Kong specifically to exploit this loophole.

Even in the United States a lot of ivory has come in illegally. When I testified ten years ago I was assured by the U.S. Fish and Wildlife Service that with the elephant listed as a "threatened" species they would soon have all the controls necessary to prevent illegal ivory from entering the country, but it continued to do so even from countries that had ivory export bans (Thomsen, 1987).

Enforcement of the CITES Ivory Quota Agreement is very difficult. No sooner does one entrepot get closed down than another opens up. Nairobi was the ivory capital in 1976, when it closed down the centre moved to Bangui. Kampala and Khartoum have also each been important centres. Burundi and the U.A.E. are only the most recent new ivory trading countries. If they get closed down the trade will simply move elsewhere.

The whole system at present is out of control. There isn't time to get proper controls. The traders are too clever at finding loopholes. One only has to look at the rhino situation to see what will happen to the elephant. The only merit of the system is if it can lead to united international police action to eliminate the illegal ivory trade. This is what I recommended to your committee in 1979, but it has not happened.

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DISCUSSION AND RECOMMENDATIONS

The future of elephants depends on whether we expect the offtake of ivory to remain constant, or whether we expect it to decrease as the elephants become fewer. If we expect it to remain constant then at present rates there is probably less than twelve year's supply of elephants in Africa.

It is often said that elephants should be cropped and the products used to create industries that will give them an economic value. Ideally, the elephants should be part of a natural bank which pays dividends to local people. Zimbabwe appears to be successful in sustained culling which serves this function. It does not however work in East, Central or West Africa, where poaching is prevalent. Banks can only operate where bank robbers are kept under control. No one can be paid when the bank has just been robbed.

My fear is that once the elephants of East and Central Africa have been reduced to insignificant numbers by the ivory trade, that the pressure will mount irresistibly on the Southern African population. This will be inevitable if demand remains at its present level.

As the elephants become scarcer the price will continue to rise. Even now the demand of Honk Kong, Japan, Europe and America cannot be met. It was thought that when the large

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Singapore ivory stock of 297 tonnes came on the market in the latter half of 1987, that the price of ivory would fall. It did not. It continued to climb up to \$150/kg and beyond. At present levels of demand we can expect the price to go on up through the roof. The crux of the whole matter is that if elephants are to survive in reasonable numbers the volume of ivory being consumed by the developed world must be reduced and every strategy to achieve this should be considered.

These strategies could include:

1. Increased pressure on the ivory trade by increasing law enforcement priority in the application of the quota system.
2. Regional or country moratoria on ivory trading.
3. Attempts to lower the international price of ivory by making ivory unfashionable to buy.
4. Better protection of elephants in the wild.

The CITES Ivory Unit routinely processes information on traders and those who deal in illegal ivory are well known. Far greater priority should be given to using the system to improve law enforcement.

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A moratorium on ivory imports by the U.S. alone would not stop the World Trade, but it would make it less profitable and provide a lead for other countries. Between them the U.S. and Europe are estimated to account for some 43% of the world imports of worked ivory. Japan accounts for another 38% with a far larger share of raw ivory (Caldwell, 1988). If the EEC followed the U.S. lead then perhaps Japan too could be persuaded to reduce its ivory consumption.

The point has been made and rightly, that African nations need to have some outlet for ivory legitimately acquired by government, either from natural mortality, or from animals shot on control, or from approved culling schemes. A moratorium could make exception for such ivory. They must be allowed to sell these tusks as they cannot afford to throw away something of value. Hunters too should be allowed to carry their trophies home, as I recommended to your committee in 1979.

Even more effective than a moratorium would be the persuasion of people not to buy ivory. If we accept, that for the greater part, the ivory wealth of Africa is being stolen, then a heavy responsibility lies with buyers of stolen property. With the present day lack of control it is virtually impossible to tell whether or not a piece of ivory bought in the U.S. is of legal or illegal origin.

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As Hilary Ngweni, Kenya's leading journalist has questioned:

"How can countries where ivory is legally on sale, or where officials close their eyes to illegal trading, blame a poacher for trying to earn a living wage". (Newsweek International Edition, May 16, 1988)

In order to protect elephants in the wild, there is no substitute for well-trained, specialized anti-poaching forces based permanently in the parks.

There are some people who say that anti-poaching is impossible today in Africa. There are too many poachers and therefore it is impossible to cope. Yet all three East African countries have had effective anti-poaching in the national parks in the past. It worked in Tsavo national park for over 25 years until 1976. Serengeti national park in Tanzania and Murchison in Uganda also had effective forces for many years.

There is no reason why anti-poaching cannot work given the right ingredients. Several of these were identified in the recommendations included in the recent report on the count in Tsavo, (Olindo, et-al, 1988). The most important included:

1. Attempts to persuade importing countries not to handle illegal ivory of Kenyan origin.

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2. Attempts to track down and prosecute illegal traders.
3. Material aid for the parks, recruitment of enthusiastic officers and dismissal of inefficient or corrupt ones.
4. Identification of ways in which local people could benefit from the Park, and be won over to the conservation cause.
5. Encouragement of tourism in the prime range to the elephants so that it can help suppress poaching as it has done in several other areas.

Kenya has made a start in all these respects.

There are reasons to think that the situation can be turned around. As elephant numbers go down the situation of the elephant receives publicity and concern in Africa as well as in the western world. Recent counts showing elephant disasters in East Africa are being followed by action programmes, but much more needs to be done. The huge problems of financing wildlife protection remain. Both Kenya and Tanzania have banned the private trade in ivory, but illegal buyers still exist, and will continue to do so while overseas demand remains so high.

The African elephant needs U.S. help. The World

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needs to give the elephants some time and pay some of the cost of Africa's wildlife conservation. The time for action is now, not when the elephants have followed the route of the rhinoceros.

SPECIFIC COMMENTS ON PROPOSED LEGISLATION

Regarding the proposals contained in the "Elephant Conservation Act", I would recommend against taking a "conservation tax" off ivory imports. It will encourage the trade and allow people to salve their consciences when they buy ivory by thinking that they are helping elephants, when the opposite is the case.

The main problem with this bill is that it doesn't give sufficient weight to reducing the overall offtake of ivory.

With regard to the "Elephant Protection Act":

1. The idea of eliminating the role of the United States in creating a demand for ivory is crucial if we are to reduce the volume of ivory being consumed by the developed world.
2. Banning the import of elephant skins, however, is a bad idea as it will have no effect on eliminating illegal killing. Most of the skins come from countries with

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approved and well regulated culling schemes. It would particularly penalize Zimbabwe which has well controlled conservation and management programs.

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ANSWERS TO CONGRESSMAN BOB CLEMENT**BY I. DOUGLAS-HAMILTON****3rd August 1988**

I do not think that the ivory quota system presently being used by CITES is effective and have detailed why in my written testimony to the committee. The system has too many loopholes, and the traders are too clever in evading restrictions. Some of the quotas submitted by countries are too large to be sustained, and most of the trade in any case is illegal and never appears in the quotas. Ivory found on sale in the US has a high chance of being illegal in its origin.

A ban by the U.S. on the imports of ivory would be helpful in making ivory less profitable, especially from intermediate countries. Providing the ban made exceptions for the import of trophies, and for direct imports from African nations with elephant populations there seems no reason why this action would have an adverse effect on the quota system.

Many African governments will react adversely to an American ban on ivory exports, some may welcome it. If the ban makes legitimate exceptions for countries with effective management most African governments will probably respect America's right to make its own decisions with regard to ivory imports. Several countries already do have bans in position. For example Zimbabwe and Burundi both have ivory import bans. Kenya and Tanzania have a total ban on all internal private trading in ivory raw or worked. Basically, every country has the right to impose its own laws on trading in ivory including the U.S.



World Wildlife Fund
The Conservation Foundation



STATEMENT

of
WILLIAM K. REILLY
PRESIDENT
WORLD WILDLIFE FUND
and
THE CONSERVATION FOUNDATION

before the

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT

of the

House Committee on Merchant Marine and Fisheries

on

Elephant Conservation Legislation

June 22, 1988

Mr. Chairman and Members of the Subcommittee, I am grateful for the opportunity to appear before you to present the views of World Wildlife Fund on proposed legislation to help protect the African elephant. My organization, indeed conservation groups throughout the United States, welcome the attention to this critical wildlife issue. I have consulted several conservation groups in preparing my statement. The Environmental Defense Fund and National Audubon Society have endorsed the recommendations I am presenting today. Others will be submitting their own supporting testimony.

We applaud Congressman Beilenson for his leadership and you, Mr. Chairman, for convening these hearings. I hope there will still be time this session to adopt a bill that can reinforce the efforts of African nations and the Secretariat to the Convention on International Trade in Endangered Species of Wild Fauna and Flora -- that is, CITES, the authority governing international wildlife trade -- to stop the illegal ivory trade and the needless slaughter of elephants.

I am William K. Reilly, president of World Wildlife Fund and The Conservation Foundation. World Wildlife Fund is the leading private organization working worldwide to protect endangered wildlife and wildlands. We have 450,000 members in the United States, and about 2 million in the 23 WWF national organizations around the world. World Wildlife Fund is a field-oriented organization, supporting individuals and institutions that carry out practical conservation projects on the ground.

During our 27 years, the family of WWF national organizations has worked in 130 countries to carry out over 4,000 projects involving a comprehensive array of conservation techniques. We have protected wildlife habitat by assisting in the establishment and management of more than 330 national parks and protected areas. We support scientific research on wildlife and wildlands management issues; environmental education and conservation training; projects that promote use of natural resources on a

sustainable basis; and institution building to assure a viable conservation movement in developing countries. World Wildlife Fund also supports and funds a network of 11 TRAFFIC offices around the world that monitor and analyze the international trade in wildlife.

The WWF family has spent over \$1.5 million in the last four years on projects in Africa to protect the elephant and its habitat. The WWF family has spent additional resources in staff time to plan and manage these projects and to foster public awareness in the developed world. The field projects are planned and implemented in close cooperation with directors of parks and wildlife departments, park rangers, and other policy and field people in Africa. In April, for example, WWF organized a meeting in Lusaka, Zambia, of high-level representatives from most major ivory-producing countries to assess the current situation with respect to ivory trade and elephant populations, and to hear from the Africans themselves about their problems and about needed initiatives.

As scientists from the African Elephant and Rhino Specialist Group of the International Union for Conservation of Nature and Natural Resources (IUCN) will tell you, the decline of elephant populations has reached alarming proportions. Kenya and Uganda have lost 85 percent of their elephants since 1973. One of the largest game reserves, the Selous in Tanzania, lost 50 percent of its elephants in 10 years. The major causes of this disaster are the world's seemingly insatiable appetite for ivory and the greed of middlemen who foster illegal trade.

WWF's TRAFFIC network, working closely with the CITES Secretariat, estimates that almost 650 metric tons of raw ivory tusks -- representing some 69,000 elephants -- left Africa in 1986. Of this amount, only about 190 tons was exported under quota and controlled by the new CITES ivory control system. The difference represented tens of thousands of illegally killed elephants. In 1987 Africa's total legal exports of raw ivory dropped to 154 tons as no country fulfilled its quota.

The CITES ivory control system was an initiative of Africa's ivory-producing countries. Intended to help bring the massive illegal trade under control, it appears to be working in those countries where law enforcement is effective. The system deserves the strong support of all CITES members, including the United States, for it is the only means we have of monitoring and controlling the legal trade in ivory. The data it produces, analyzed in conjunction with data on elephant populations and trends, is the only means of determining the extent of both the legal and illegal trade.

The ivory control system alone, however, will not stop illegal trade. Too many illicit traders simply make too much money. These illicit traders are quite willing to violate national laws. They are quite able to finance well-armed criminals to slaughter elephants and cut away their tusks. They are quite ready to bribe local customs officials and smuggle ivory through neighboring countries.

Only a major international campaign with a multipronged approach can end this needless carnage. The campaign must include:

- concerted diplomatic and economic pressures against all countries that accept illegal ivory and violate the procedures and spirit of CITES; the U.S. government's actions against Singapore and Burundi, which were major funnels for illegal ivory en route to the Orient, offer examples;
- reduction of world demand for ivory until demand is brought into balance with the legal supply;
- technical assistance, equipment, and financial support to the wildlife departments of ivory-producing nations to improve their effectiveness and their morale, to strengthen anti-poaching efforts in the field, and to monitor elephant populations;

- adequate funding for the CITES Secretariat; I am encouraged to see that the House Appropriations Committee has recommended a significant increase in the U.S. contribution to CITES for FY 1989;
- refinement of quotas in order to distinguish between confiscated tusks and legally obtained tusks, and to ensure that the latter, that is, quotas for legal ivory in trade, are set at sustainable levels over the long term;
- an overall economic analysis of the ivory trade so that the CITES Secretariat, the ivory importing and exporting countries, and all others concerned about the survival of elephants understand better the market dynamics and the points and opportunities for applying controls;
- analysis of the ivory trade within Africa and the ivory handicraft industries of West and Central Africa, where few if any controls are applied currently;
- accelerated development of substitute materials for ivory and of biochemical methods to determine the place of origin of ivory.

Such an all out effort, World Wildlife Fund estimates, will require at least \$4 million a year for the next three years from non-African sources. I urge this Subcommittee to authorize in Section 109 of the proposed African Elephant Conservation Act at least half of this amount, to be placed in the proposed Elephant Conservation Trust Fund described in section 105. If Congress both authorizes and appropriates this amount, World Wildlife Fund will seek to raise an equal amount from other sources. WWF would work with the African Wildlife Conservation Committee, proposed in section 103, to ensure that funds raised by WWF are used to complement, not to duplicate, expenditures recommended by that Committee.

It is imperative that most of this money be used to support the efforts of African wildlife departments to improve their own effectiveness in stopping poaching, enforcing domestic laws, and protecting key elephant populations. In some countries the proceeds of ivory sales are now being returned to the wildlife departments for these same purposes. These proceeds are essential to increase the pay and morale of rangers in the field and augment the meager funds that most African countries can appropriate to their parks and wildlife departments. An east African ranger earning \$25 a month and armed with an old World War I rifle is obviously no match for modern-day poaching gangs armed with automatic rifles. I have met with many rangers who do anti-poaching work and I admire their courage enormously. But we are asking too much of them. Their salaries and their weapons must be upgraded.

Ivory-producing nations in Africa are not receiving full benefit from the legal ivory trade, however, because huge profits are made by the middlemen before the raw ivory reaches Japan and Hong Kong. Many of these middlemen are also dealing in illegal ivory. There is a wide disparity in the prices received by various African nations for their legal tusks, from as low as \$60 a kilogram to a high of \$260 a kilogram for the largest tusks. African nations could realize a significantly higher return if they had better knowledge of the market and a mechanism through which they could market raw ivory directly to the ivory associations in Japan and Hong Kong. The CITES African Elephant Working Group, representing both producing and consuming countries, will meet in September, 1989 to consider setting up such a marketing mechanism. The elimination of middlemen must be a major objective of any international, multipronged campaign.

Despite the enormous job ahead, the Subcommittee should take note of considerable progress in the last two years in shutting down many avenues of illegal trade. Singapore, previously a major trader in illegal ivory, has joined CITES and is bringing its trade under control. Last November, Burundi, which previously

had laundered hundreds of tons of illegal ivory, announced a total ban on ivory trade; the new government in this African country needs all possible encouragement to enforce this bold and praiseworthy policy.

Japan, which consumes about 75 percent of Africa's raw ivory production, is making far greater progress in controlling ivory than it has in dealing with other endangered wildlife products. Japan's imports of raw ivory peaked at 475 tons in 1983 and 1984, with 80 percent of the imports in violation of CITES regulations. In April, 1985 due to international and domestic pressures, the Japanese government and ivory importers agreed to a number of measures that ensure that virtually all ivory currently entering Japan is in compliance with CITES. Among these measures:

- organization of the major importers into a single association, which accounts for 85 to 90 percent of the trade;
- pre-clearance of import documents with the CITES Secretariat before shipments are allowed to enter Japan;
- prohibition on imports of raw or worked ivory from United Arab Emirates, another major conduit for illegal ivory;
- a one percent surcharge on the declared import value of raw ivory which is used to support CITES; the Japanese Ivory Association has been the principal funder of the CITES ivory control system.

Since 1985, Japanese demand for raw ivory has abated significantly. Imports of raw ivory into Japan dropped from the high of 475 tons to 80 tons in 1986 and 143 tons in 1987. The Ivory Association has told WWF that an annual supply of 120 tons would probably satisfy its members' needs.

Although the Hong Kong Ivory Association is less cohesive than Japan's and has been much slower to institute reforms, some recent progress is evident. The Hong Kong group also told WWF that it could survive on about 120 tons of raw ivory a year. While Japan's and Hong Kong's stated needs combined still exceed the legal supply coming out of Africa, at least there is a growing awareness in both countries that further adjustments are still required if there is to be any ivory carving business in the long run.

Some dealers, particularly the infamous George Poone, have obviously sensed that the bloom is off the rose in Hong Kong. Last year, he moved 66 Chinese carvers and their families to Dubai in the United Arab Emirates -- the only country that has ever withdrawn from CITES. To exploit a major loophole in the CITES system -- CITES does not control worked ivory -- Poone's U.A.E. factory now produces partially worked ivory, which is then shipped to Hong Kong for more intricate working. When the finished product enters the U.S. market legally, there is no way of knowing that it had been carved from an illegal tusk poached in Tanzania, smuggled into Burundi in an oil tank truck, and flown to the United Arab Emirates.

Under pressure from the U.S. Fish and Wildlife Service and World Wildlife Fund, the Hong Kong government has recently agreed to begin controlling all imports of worked and partially worked ivory, currently valued at some \$8 million a year. Hong Kong, which exports a third of its finished products to the United States, has also told WWF and the U.S. Consulate that in the future it will be willing to certify that ivory in U.S. shipments is derived from legal sources and carved in Hong Kong.

Some in this country advocate that all U.S. imports from Hong Kong and Japan should be prohibited. In WWF's view that would be a mistake. These countries are beginning to take significant measures to comply with and support the CITES ivory control system. Now is not the time to penalize them. If the United

States supports the CITES system, it should also support those countries that are making good faith efforts to comply. A ban on worked ivory imports from Hong Kong at this time would do far more to undercut CITES than to strengthen it. Such a prohibition would undoubtedly hasten the transfer of ivory carvers from Hong Kong, where controls are tightening, to West and Central Africa where there are no controls on worked ivory. The result: continued slaughter of elephants.

This last week World Wildlife Fund received confirmation that a dealer, apparently Mr. Poone, is negotiating to set up a factory in Kisangani in central Zaire to produce at least 10 tons of worked ivory a year. The equipment and the Chinese carvers are ready to leave Hong Kong as soon as the venture gets approval from the Zaire government. WWF understands that Mr. Poone has held similar talks in Congo and the Central African Republic. These factories would be potential outlets for illegal ivory, such as the 87 tons that were smuggled from Tanzania into Burundi before the new Burundi government's ban on ivory trade. In response to international pressure, the CITES Secretariat refused to allow the Burundi ivory to enter trade legally in its raw form. But it could enter trade legally in worked form, with all the profits going to middlemen's bank accounts in Hong Kong or Switzerland.

The CITES system is beginning to control the international trade in raw ivory, but it does not appear to have any present impact on the tusk trade within Africa, and the handicraft industry there is not controlled at all. It is clear that as controls are tightened elsewhere, major dealers like Poone will move their operations into West and Central Africa where it will be virtually impossible to track the trade. I hope that this Subcommittee will urge all possible measures to block that possibility, rather than encourage it. The substantive additions that I am suggesting in the proposed legislation are intended to help achieve this result.

Since the United States chairs the CITES Standing Committee, which guides CITES policy on behalf of the 95 member nations, and has considerable diplomatic and economic resources to devote to wiping out illegal trade and helping African nations reduce poaching, our government has a great opportunity to help save the African elephant and an obligation to exert the needed leadership. Even though the worked ivory imported into this country accounts for only about ten percent of the raw ivory that leaves Africa each year, the threat of a moratorium on these imports, as provided in Title II of the Committee Print, could provide our government considerable leverage. Imports into the United States, worth some \$12 million, represent a third of Hong Kong's total ivory exports. The threat of a moratorium provides an incentive for the Hong Kong dealers and carvers to clean up their own industry. Hong Kong and Japan are the principal outlets for the raw ivory that African nations want to sell to earn foreign exchange.

In fact, the threat of a moratorium is probably far more effective at this time than an actual ban. This is suggested by the experience in 1973 when the Fish and Wildlife Service proposed a moratorium on kangaroo skin imports from Australia. The threat of losing the U.S. market caused the Australian government to regulate kangaroo trade by imposing on its states strict requirements for management, conservation, and harvesting. Before the new regulations were implemented by each state, however, the ban went into effect and the U.S. trade, which amounted at that time to 84 per cent of Australia's total kangaroo exports, was diverted to European markets. In the kangaroo example the very threat of a moratorium triggered a positive Australian response.

In WWF's view, a unilateral ban on U.S. ivory imports at this time would be counterproductive and would forfeit what leverage our government has. It would be viewed by African nations as a deliberate slap at their efforts to control the trade and an undercutting of the CITES ivory control system, which they

initiated. It would penalize those nations that comply with CITES rather than the middlemen who do not. Because world demand currently far exceeds supply, the U.S. trade would quickly be diverted elsewhere.

Against this background, let me provide a few comments on the elephant conservation legislation now before this Subcommittee. We believe that the Committee Print for the African Elephant Conservation Act could be the basis for very constructive legislation. My staff has already provided detailed editorial comments to your staff, so I will only address at this time the substantive changes that we propose. Because ivory is the cause of the problem, we believe any bill should focus only on ivory. In our view, there is no need to cover all elephant products. One million dollars worth of elephant skins were imported into the United States in 1986 from Zimbabwe and two other countries that have scientifically sound programs to sustain their elephant populations. Elephants are not killed for their skin and, as far as WWF knows, skins are not traded illegally. The inclusion of all elephant products in this proposed legislation would add to the enforcement costs without commensurate benefit and would diffuse the spotlight that needs to be focused on ivory.

We would redefine the term "ivory producing nation" to include only those African countries that have elephant populations, are party to CITES, and have submitted an ivory quota to CITES. Only these nations should be entitled to export raw ivory to the U.S. Narrowing the definition would reduce the number of countries for which the Secretary of the Interior must review elephant management plans under Title II.

WWF endorses the concept in Title II of granting the Secretary the authority to impose a moratorium on ivory imports from any ivory-producing nation that has not made significant progress in protecting its elephants by the time the next conference of CITES parties meets in October, 1989, in Indonesia. In more than a few countries the illegal trade is abetted by high level corruption

and cannot be stamped out unless the political leadership of that country demonstrates the will to curb that trade. These leaders should be put on notice that the United States will support any nation that is making a good faith effort to control elephant poaching. But our country should not allow the import of ivory from a nation that lacks the political will to do so.

World Wildlife Fund expects new information and serious discussions on the elephant situation at the next CITES conference, based on up-to-date reports from the Secretariat, the African Elephant and Rhino Specialist Group, our TRAFFIC network, African governments, and others. For that reason I recommend January 1, 1990 as the date by which the Secretary of the Interior would have to impose a moratorium if his findings under Title II of the Committee print warrant it. The legislation should not preclude the Secretary from imposing a moratorium on imports from an intermediary country at any time after enactment of the proposed legislation, should a situation warrant this step.

The ivory trade has historically earned immense profits for the non-African middlemen who trade between Africa and the Orient via Arab countries, Europe, and Singapore. Any benefit to the ivory producing countries has been comparatively minimal. If the illegal trade in ivory is to be stopped, these middlemen must be put out of business. The value of ivory held for investment must be diminished. Remaining entrepots and routes for illegal trade must be shut down. And profits must be diverted to the producing countries. The United States should take the lead in this endeavor by severely restricting the ivory that enters this country.

World Wildlife Fund recommends that Congress enact legislation to prohibit all imports of raw ivory from any country that is not party to CITES and is not an ivory producing country with a valid CITES quota. This provision would restrict imports of raw ivory to those African nations -- ten at present: Cameroon, Central

African Republic, Congo, Malawi, Mozambique, Somalia, South Africa, Tanzania, Zaire, and Zimbabwe -- that have ivory quotas and are participating members of CITES. These nations authorized the export of only 362 tusks to the United States in 1986. This recommended provision would allow the import of hunting trophies and other legal tusks from CITES members that have sound elephant management programs. But it would eliminate the likelihood of illegal tusks being laundered through other countries on their way to the U.S. market.

WWF also recommends a prohibition on the export or transit of raw ivory from or through the United States. We see no reason why this country should become a transshipment point for raw ivory. Each time a shipment moves through an intermediary country it becomes more difficult to trace.

To help African countries that are trying to effectively control poaching and illegal trade, WWF recommends a prohibition on all U.S. imports of raw or worked ivory that is known to emanate from an ivory producing nation in violation of that nation's laws and regulations or in violation of CITES ivory control procedures. This provision, complementing one in the Lacey Act, would prevent import of worked ivory from countries such as Kenya and Tanzania that prohibit its sale. It would also shut out imports of any ivory that had passed through countries such as Burundi or U.A.E., which are known to harbor huge stockpiles of ivory poached illegally in eastern and central Africa.

Lastly, WWF recommends that all imports of worked ivory into the United States be prohibited unless they come from a country that is party to CITES, is complying with all CITES ivory control procedures and certifies that the specific shipment is derived from legal sources and carved in the country of export. This prohibition is essential in stopping the conversion of illegal tusks into worked or partially worked ivory that is not controlled by CITES. We would propose also to broaden the bill's authority in Section 201(d) to impose a moratorium on ivory

imports to the United States from any intermediary country that imports raw ivory from a non ivory-producing nation, that imports raw or worked ivory in violation of an ivory-producing nation's laws, or that imports any ivory in violation of CITES ivory control procedures. These steps would ensure that Hong Kong implements the measures it has promised to and that the same standard is applied to other countries, such as Japan or Zaire, that might like to export worked ivory to the U.S.

We believe that if Congress applies the above restrictions to all commercial shipments of worked ivory emanating from any source, it will be more difficult to launder illegal ivory and the amount of illegal ivory entering the U.S. market will be sharply reduced. The Department of State and the U.S. Fish and Wildlife Service, as well as WWF, would then work to get Europe and Japan, the other major ivory consumers, to adopt similarly strict prohibitions. Only by such means can we close the major evasive routes for illegal ivory.

Mr. Chairman and Members of the Subcommittee, let me conclude by reiterating how urgent is the plight of the African elephant. I believe the proposed legislation could make a significant dent in the problem as far as U.S. imports are concerned. It could also demonstrate U.S. leadership and set the stage for ivory producing and importing countries to take the concerted international action that is needed to stop the precipitous decline of elephant populations. This action must be taken in close consultation with African governments for they have made abundantly clear to World Wildlife Fund that they consider this problem an African problem, albeit one of international significance. World Wildlife Fund wants to and is ready to work with the U.S. Congress and Executive Branch, with the countries of Africa, and with conservationists everywhere to save elephants.

Thank you.

STATEMENT ON LEGISLATION TO PROTECT AFRICAN ELEPHANTS

Presented before the House Subcommittee on
Fisheries and Wildlife Conservation and the Environment

Presented by

Dr. Susan Lieberman
Associate Director
Wildlife and Environment

THE HUMANE SOCIETY OF THE UNITED STATES

June 22, 1988

This statement is presented on behalf of the following organizations:

American Humane Association
Animal Protection Institute
Fund for Animals
Earth Island Institute
Greenpeace
The Humane Society of the United States
International Fund for Animal Welfare
International Wildlife Coalition
Sea Shepherd Society
Society for Animal Protective Legislation
World Society for the Protection of Animals

This testimony is presented on behalf of the following environmental and animal welfare organizations: American Humane Association, Animal Protection Institute, Fund for Animals, Earth Island Institute, Greenpeace, The Humane Society of the United States, International Fund for Animal Welfare, International Wildlife Coalition, Sea Shepherd Society, Society for Animal Protective Legislation and World Society for the Protection of Animals. These organizations, with a combined membership of more than two million American citizens, are committed to ending the tremendous suffering inflicted on African elephants by the ivory trade and their decline toward extinction. On behalf of these organizations, I thank you for the opportunity to testify today before the Subcommittee on Fisheries and Wildlife Conservation and the Environment. I would like to thank the Chairman of the Committee, Congressman Gerry Studds, for calling these hearings. I would also like to extend a warm thank you to Congressman Anthony Beilenson for his dedicated efforts for more than a decade to protect the world's largest and indeed most magnificent land mammal- the African elephant.

We have been asked to testify today on two bills: HR2999, the Elephant Protection Act, sponsored by Congressman Beilenson, and a Committee Print, drafted by committee staff. We strongly support HR2999, which provides the protection necessary to prevent both the extinction of the African elephant, and the widespread suffering caused by the ivory trade. We do not support the Committee Print, otherwise known as the African Elephant Conservation Act. As I will discuss below, it contains several provisions, however well-intentioned, that will actually encourage the ivory trade and threaten the long term survival of elephants.

This committee last held hearings on elephants and ivory in July, 1979; most of the testimony presented by our organizations then could be substituted today. Nothing has changed- with one major exception: Nine years ago, there were estimated to be 1.3 million elephants in Africa. Today, fewer than 700,000 remain. In fact, recent field research in Central and West Africa puts the total population at closer to 400,000. We cannot afford to delay another nine years.

The African elephant, Loxodonta africana, is the world's largest land mammal. Large males can weigh up to 12 tons and stand more than thirteen feet at the shoulder. These magnificent animals are found in the savannah grasslands and forests of Africa. Elephants are extremely intelligent animals, and exhibit very complex social behavior. Elephants are slaughtered for their tusks, which are turned into ivory jewelry, trinkets, and expensive carvings.

In the early 1900's, the ivory trade killed more than 100,000 elephants a year, to feed a growing market for piano keys, billiard balls, and trinkets. After World War II, the availability of plastic substitutes caused a temporary decline in the ivory trade. But the luxury ivory market is now on the rise. There is in fact nothing made with ivory that cannot be made just as beautifully with synthetics. Ivory serves no useful purpose to society whatsoever.

Virtually all elephant populations in Africa are declining. Elephants are practically gone in West Africa, where a few remaining survivors in relict populations are still threatened by poaching. Many protected areas and parks have also seen declines in their elephant populations, as the result of poaching. For example, in 1984 only 80 elephants remained in the

Niokala-Koba National Park in Senegal. Elephant populations in the Ivory Coast have been reduced by more than 80%, with an annual decrease of 10% due to poaching. Elephant populations have declined 80% in the Central African Republic since 1981, due almost exclusively to poaching. In Zaire, which has the largest elephant population in Africa, there has been a 60% decline in elephants within the national park, with worse conditions in surrounding areas. Uganda has lost 90% of its elephants in the last ten years. In unprotected areas, Kenya has lost 91% of its elephants; even the protected parks visited by so many tourists have lost 72% of their elephants. In the Kilifi district of coastal Kenya, fewer than 100 elephants remain, where only 15 years ago there were 10,000!

In 1972, when the current extensive exploitation of elephants for their ivory was beginning, the average tusk traded weighed about 13 kilograms; the average tusk in trade weighed 8 kilograms in the early 1980's, and 4.6 kilograms in 1986. Today, the average tusk traded weighs only 3 kilograms, and a significant portion of those traded weigh less than half a kilogram. What is happening? Ivory grows throughout an elephant's life, with the greatest growth during an elephant's later years. The aforementioned decline in average tusk size shows that the large mature elephants have already been wiped out, and the ivory hunters are killing juveniles instead. These immature elephants haven't yet reproduced, and their deaths at the hands of the poachers represent a major tragedy for the survival of their species. A complete ban on the ivory trade today would save the lives of tens of thousands of elephants, allow individuals to reach maturity, and allow for population expansion.

Central Africa contains the majority of Africa's remaining elephants, since the high forest density protects the elephants from people and their guns, poisons, and snares. Yet research by Professor Pierre Pfeffer, Director of Scientific Research of the French National Museum of Natural History, and Secretary General of France's National Society for the Protection of Nature, has shown that methodologies used to estimate Central African populations may be flawed, thereby yielding significant over-estimates. Forest elephants will begin to die in great numbers to feed the ivory trade, as soon as development schemes reach those tropical forests, and formerly remote areas become accessible. Anti-poaching efforts are underway in some African countries, though enforcement efforts are often rudimentary and underfunded. Sadly, many ill-equipped wildlife officers have been killed by poachers. In many countries, military and government officials have been directly implicated in poaching and trafficking in illicit ivory. Corruption is rampant in many governments.

While habitat destruction and human population growth are also a problem, recent scientific studies have shown that poaching for ivory is the most immediate threat to the future of elephants. Rising ivory prices, political instability, and the spread of automatic and semiautomatic rifles throughout Africa have contributed to a wholesale slaughter of elephants. The only truly effective way to stop the slaughter of elephants is through the complete elimination of the ivory trade. Halting the demand for ivory from the wealthy importing nations will destroy the incentive to poach the elephants.

The Convention on International Trade in Endangered Species (CITES) instituted an Ivory Quota Control System that went into effect January , 1986. It was designed to set export quotas and

required member nations to mark tusks with punch dies. CITES also amnestied large stockpiles of raw ivory in an attempt to control the ivory export trade. The system is designed to allow the export of ivory from countries that enforce anti-poaching laws and have reasonable conservation programs. Unfortunately, the entire ivory quota system is a dismal failure. In 1986, the CITES Secretariat amnestied nearly 100 tons of ivory stockpiled in Burundi, even though it had no living elephants in the wild, and no African country would admit exporting ivory to Burundi. This ivory was obviously poached, and laundered into the legal trade by corrupt officials. As noted in the attached letter to the CITES Standing Committee, from representatives of several conservation and animal welfare organizations, the situation in Burundi is out of control again. Sixty tons of illegal ivory are stockpiled- and the CITES Secretariat admitted to us that it is planning to amnesty it again, so that the ivory can enter the trade as "legal". These actions by the CITES Secretariat send a message to Africa that the Ivory Quota System is ineffective.

More than 90% of the ivory entering the United States comes in as worked ivory (jewelry and trinkets), and most of it arrives from Hong Kong. Importers in Asia buy raw ivory from Africa, without verifying where it came from or how it was obtained. The African Elephant and Rhino Specialist Group (AERSG) of the International Union for the Conservation of Nature and Natural Resources (IUCN) has estimated that in 1986, the first year of the quota system, 78% of all ivory traded worldwide was poached ivory, and this trade was operating totally outside of the CITES system. Some poached ivory is confiscated, and then placed back into the market, now as "legal" ivory. This poached ivory represents the tusks of approximately 89,000 elephants in one year!

Hong Kong does not know the origin of most of the ivory it imports and re-exports. Legislation in Hong Kong does not control worked ivory, because it is not considered to be a recognizable part or derivative of a CITES-protected species. Thus, Hong Kong can and does import ivory from elephants which have been illegally slaughtered, and then "legally" re-exports it to the United States.

It is indeed unfortunate that the CITES Ivory Quota System appears to have stimulated the killing of more elephants. CITES has been effective in controlling the trade in other threatened and endangered species, but it certainly can't control the effects of military instability and corruption in Africa. The United States currently serves as Secretary of the CITES Standing Committee, and is in a unique position to set an example that the rest of the world will quickly follow. We urge the U.S. Congress to pass strong legislation that will go a long way to do what the CITES Ivory Quota System unfortunately cannot- prevent the extermination of the African elephant.

In 1985, 4.8 million pieces of worked ivory and 27,346 kilograms of carvings came into the U.S., mostly from Hong Kong; most of it is poached. This ivory has a declared value of more than \$24 million. We are responsible for this slaughter if we continue to allow ivory to be imported into our country. When we take leadership, and stop allowing ivory into our country, the poachers will find that there is a far smaller market for their product, and will be encouraged to stop killing elephants. Other nations and economic communities will follow the United States' lead. It is for this reason that we strongly support HR2999, the Elephant Protection Act.

Unfortunately, the record of the U.S. Fish and Wildlife Service on enforcement of existing legislation and CITES requirements is miserable. At House and Senate hearings in 1979, 1980, and 1981, they assured Congress that current regulations would be vigorously enforced. This has not occurred. According to TRAFFIC, the trade monitoring division of the World Wildlife Fund, the United States has not implemented the measures required under the CITES Ivory Quota System, and has failed to fulfill its obligations under both the Lacey Act and the Endangered Species Act.

The Fish and Wildlife Service has allowed into the United States shipments with fraudulent or missing documents. It has admitted shipments directly from countries outlawing any ivory exports. It has admitted shipments from intermediary countries listing as country of origin an African country with a CITES ivory quota of zero! The Fish and Wildlife Service cleared a shipment of 140 tusks from Zaire last year, even though Zaire until that date had not authorized any shipments to the United States. The Fish and Wildlife Service Law Enforcement Division knows that it is admitting shipments of poached ivory, and that there is no way to ever guarantee the original source of worked ivory products from Asia. When asked recently, a law enforcement official did not even know what countries in Africa outlawed ivory exports.

I have attached to my testimony a list of all ivory and other elephant product imports into the United States for April, 1988. This is the most recent month for which statistics are available from the Fish and Wildlife Service. In just one month, 335,901 grams of ivory jewelry and carvings, and 60,278 separate items, were imported into the United States. Most of the 124 shipments this represents came from Hong Kong. Ten of the

shipments were admitted with a declaration of country of origin as unknown- this is clearly illegal. Three shipments of elephant leather shoes were allowed to enter the U.S. with a country of origin declaration as Mexico! Numerous shipments with country of origin declared as Zaire, Central African Republic, and Burundi are also of questionable legality.

Congressman Studds has asked each of us testifying to comment on the Committee Print, or African Elephant Conservation Act. The Committee Print contains several provisions that we strongly oppose, since they will encourage stimulate the killing of more elephants for their ivory, and will further threaten the existence of the species.

The Committee Print contains a provision for the Secretary of the Interior to approve qualified elephant conservation projects. We support this effort, as long as these projects do not stimulate the killing of more elephants. We do not object in principle to the establishment of an Elephant Conservation Trust Fund, which will fund elephant conservation and protection projects throughout Africa. We indeed would support the funding of projects to protect other threatened and endangered species in Africa as well. We do however object vehemently to the funding of such a Trust Fund through the imposition of an excise tax on elephant ivory.

A tax on ivory imports will institutionalize the trade, which we oppose. This regulation and legitimatization of the trade will make it next to impossible to stop it in the future. Such a tax will be used by the exploiters of elephants to justify their activities. If at any future date Congress wishes to ban the ivory trade altogether, those who profit from killing elephants will be able to use the argument that they are

supporting conservation, or the general fund, or any other program. After a tax system has been instituted, projects will become dependent on this source of funding, the ivory trade will then be regulated by Congress, and it will be very difficult to suspend either the tax system or the trade itself.

It is not appropriate to fund conservation programs in Africa through specifically earmarked tax funds collected in the United States. There is no precedent for such a trust fund. Alternative funding sources should be found for conservation programs in Africa. If these programs are worthwhile, there should be a way to fund them other than by encouraging the killing of more elephants. Anything that stimulates and institutionalize the ivory trade creates an increased market for poaching and smuggling.

The vast majority of ivory leaving Africa is poached, illegal ivory. A tax on ivory will only serve to stimulate and legitimize this trade, without doing anything to actually save elephants from slaughter. The individuals who profit from the exploitation of wildlife are not the same people making the decisions about conservation. Any system that stimulates a continued market for ivory will hurt, not help the species, particularly with the deteriorating age structure in elephant populations. It is not the Africans themselves but the Asian traders who are getting very rich off of the killing of African elephants, whether through poaching or "culling". Those who profit from killing elephants, either directly from poaching or indirectly by means of funding from a tax on ivory imports, will be encouraged to kill even more elephants.

While we attack the illicit ivory trade, we must not ignore

the African nations that sincerely want to save their elephants. They recognize that the elephant is a vital part of their natural heritage. The elephant is a long term economic resource, attracting thousands of camera-toting tourists. It is in the interest of the United States to directly aid these African nations in their efforts to protect their elephants and other wildlife. Dozens of national parks have been set up throughout Africa to preserve wildlife, including elephants; most are inadequately funded, however. Kenya, through its Department of Wildlife Conservation, stands as a leader in Africa, in the preservation of its unique wildlife heritage using sound management of its park system. The United States has the expertise and financial resources to help African nations further develop their wildlife departments, but not through stimulating the slaughter of elephants. We support the establishment of cooperative agreements with African nations by our Fish and Wildlife Service and the National Park Service.

We are opposed to some of the provisions in Section 201 of the Committee Print, since they will not provide additional protection for elephants. We feel that any elephant protection legislation restricting ivory imports should take effect within three months, and not one year. The danger of increased poaching in anticipation of even a limited moratorium is too great to allow a year to transpire between passage of legislation and implementation.

Section 201 (d) contains a provision for a moratorium on the importation of ivory or other elephant products from intermediary countries that import raw ivory from countries that do not meet a series of criteria in Section 201 (c). We consider this section to be unenforcable. It is impossible to guarantee that worked ivory comes from legally obtained raw ivory. We support a ban on

all importation of either raw or worked ivory from intermediary countries that do not themselves contain native populations of elephants. This will avoid the illegal laundering of ivory in Asia.

Forceful action by the United States to help save the African elephants- by removing the U.S. market from the ivory trade- will focus international pressure on those nations guilty of supporting the extermination of the elephants. It will encourage other consuming nations and trade groups, such as the European Economic Community, to take similar action. Then we will have removed much of the demand for ivory, that is putting such terrible pressure on this magnificent species.

The American people overwhelmingly support maximal protection for the elephant. They want to bequeath a world where elephants remain free on the savannahs of Africa- free of the exploitation and slaughter of the ivory trade. The time has come for you, their representatives in Congress, to pass legislation to truly protect the African elephant. Drastic action is needed in these, desperate times. There is no time to implement untested, and unenforceable schemes. Africa's remaining elephants cannot wait. The time has come to show the profiteers and the poachers that we will no longer be a party to the merchandising of extinction.

Thank you very much for your leadership in the struggle to save the elephants, and for the opportunity to address the members of the Subcommittee.

KEY COMPONENTS IN ELEPHANT PROTECTION LEGISLATION

The undersigned organizations strongly support HR2999, the Elephant Protection Act. In response to Congress Studds' specific request, the following is a list of minimum requirements that should be included in any compromise elephant protection legislation:

1. No tax on the importation of ivory, or any other elephant product.
2. Moratorium on importation of ivory or any other elephant product from any intermediary country.
3. Moratorium on importation of any elephant ivory, whether raw or worked, or any other elephant product, from any country that:
 - a) is not a signatory of CITES
 - b) is not adhering to all relevant CITES requirements
 - c) does not have a population of native elephants living in the wild
 - d) does not have an effective program for the conservation and protection of its elephants, as determined by the Secretary of the Interior
4. Reward of at least \$25,000 for information leading to conviction of violators
5. Any appropriations should provide for additional law enforcement, and for education of the American public that the purchase of ivory is not in the interest of conservation.
6. Issuance of a directive to the State Department to request that other countries enact a comparable moratorium.

American Humane Association
 Animal Protection Institute
 Fund for Animals
 Earth Island Institute
 Greenpeace
 The Humane Society of the United States
 International Fund for Animal Welfare
 International Wildlife Coalition
 Sea Shepherd Society
 Society for Animal Protective Legislation

APPENDIX I

ELEPHANT PRODUCT IMPORT TOTALS

TOTAL ELEPHANT PRODUCTS IMPORTED INTO THE US - APRIL, 1988

PRODUCT	SHIPMENTS	QUANTITY
Live Animals	1	4 items
Feet	1	6 items
Skin	2	452 items
Teeth	1	2 items
Handbags	2	3 items
Ivory Carvings		
- total	44	
- by weight	13	292,330 grams
- by items	31	11,785 items
Ivory Jewelry		
- total	44	
- by weight	12	43,571 grams
- by items	32	48,493 items
Large Products	2	11 items
Piano Keys	3	66 items
Shoes	15	4294 items
Small Products	4	62 items
Watch Bands	3	18 items
Trophies	2	2 items

ELEPHANT PRODUCT IMPORTS FOR 4/88: COUNTRY OF RE-EXPORT*

<u>PRODUCT</u>	<u>COUNTRY</u>	<u>SHIPMENTS</u>	<u>QUANTITY</u>	<u>%SHIPMENTS</u>	<u>%QUANTITY</u>
LIVE ANIMALS	Botswana	1	4	100	100
FEET	Zimbabwe	1	6	100	100
SKINS	Zimbabwe	2	452	100	100
TEETH	Kenya	1	2	100	100
HANDBAGS	South Africa	1	2	50	66.7
	Zimbabwe	1	1	50	33.3
IVORY CARVINGS (BY WEIGHT)	Hong Kong	13	292,330 g	100	100
IVORY CARVINGS (BY PIECE)	Hong Kong	20	4731	64.5	40.1
	Japan	4	16	12.9	0.1
	Great Britain	2	11	6.4	0.1
	India	1	1	3.2	0.01
	China	1	6	3.2	0.05
	Singapore	1	7000	3.2	59.4
	Monaco	1	1	3.2	0.01
	East Germany	1	20	3.2	0.01
IVORY JEWELRY (BY WEIGHT)	Hong Kong	12	43,571 g	100	100
IVORY JEWELRY (BY PIECE)	Hong Kong	30	46,559	93.8	96.1
	India	2	1,894	6.2	3.9
LARGE PRODUCTS	South Africa	1	1	50	9.1
	Zimbabwe	1	10	50	90.9
PIANO KEYS	West Germany	2	64	66.7	97.0
	East Germany	1	2	33.3	3.0
SHOES	Mexico	14	4294	93.3	99.9
	Italy	1	2	6.7	0.1
SMALL PRODUCTS	Italy	1	1	25	1.6
	Hong Kong	1	48	25	77.4
	Great Britain	1	12	25	19.4
	South Africa	1	1	25	1.6
WATCH BANDS	Canada	2	6	66.7	33.3
	Switzerland	1	12	33.3	66.7
TROPHIES	Zimbabwe	2	2	100	100

*All quantities are numbers of items, unless indicated otherwise.

ELEPHANT PRODUCT IMPORTS 4/88: COUNTRY OF ORIGIN

<u>PRODUCT</u>	<u>COUNTRY</u>	<u>SHIPMENTS</u>	<u>QUANTITY</u>	<u>%SHIPMENTS</u>	<u>%QUANTITY</u>
LIVE ANIMALS	Botswana	1	4	100	100
FEET	Zimbabwe	1	6	100	100
SKINS	Zimbabwe	2	452	100	100
TEETH	Kenya	1	2	100	100
HANDBAGS	Zimbabwe	2	3	100	100
IVORY CARVINGS (BY WEIGHT)	Central Af. Rep.	2	13,500 g	15.4	4.6
	Congo	3	3,300 g	23.1	1.1
	Sudan	2	9,650 g	15.4	3.3
	Somalia	2	12,700 g	15.4	4.3
	South Africa	3	252,150 g	23.1	86.3
	Zambia	1	1,000 g	7.7	0.3
IVORY CARVINGS (BY PIECE)	Botswana	1	8	3.2	0.7
	Central Af. Rep.	7	7763	22.6	65.9
	Congo	1	1	3.2	0.01
	Kenya	3	186	9.7	1.6
	Sudan	2	316	6.4	2.7
	Somalia	2	233	6.5	2.0
	South Africa	3	464	9.7	3.9
	Zambia	3	1067	9.7	9.0
	Zaire	1	1171	3.2	9.9
	UNKNOWN	8	576	25.8	4.9
IVORY JEWELRY (BY WEIGHT)	Burundi	2	4620 g	16.7	10.6
	Central Af. Rep.	3	9451 g	25.0	21.7
	Sudan	1	400 g	8.3	0.9
	South Africa	2	16590 g	16.7	38.1
	Zambia	3	12240 g	25.0	28.1
	Zaire	1	270 g	8.3	0.6
IVORY JEWELRY (BY PIECE)	Central Af. Rep.	5	6911	15.6	14.2
	Congo	2	458	6.2	0.9
	Sudan	16	24734	50.0	51.0
	South Africa	6	7744	18.8	16.0
	Zambia	3	1325	9.4	2.7
	UNKNOWN	1	7620	3.1	15.7
LARGE PRODUCTS	South Africa	1	1	50	9.1
	Zimbabwe	1	10	50	90.9
PIANO KEYS	Kenya	1	2	33.3	3.0
	Sudan	1	54	33.3	81.8
	South Africa	1	10	33.3	15.2

SHOES	Mexico	3	1740	20.0	40.5
	South Africa	1	26	6.6	0.6
	Zimbabwe	11	2528	58.8	
SMALL PRODUCTS	Botswana	1	1	25	1.6
	Sudan	1	48	25	77.4
	South Africa	1	1	25	1.6
	UNKNOWN	1	12	25	19.3
WATCH BANDS	South Africa	2	6	66.7	33.3
	Zambia	1	12	33.3	66.7
TROPHIES	Zimbabwe	2	2	100	100

*All quantities are numbers of items, unless indicated otherwise.
Source of data: U.S. Fish and Wildlife Service (USFWS)
Categories of elephant products are determined by USFWS

PROPOSED UNITED STATES LEGISLATION TO PROTECT ELEPHANTS

COMMENTS ON BILL H.R. 2999
AND
THE AFRICAN ELEPHANT CONSERVATION ACT

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June 22nd 1988

SUMMARYCOMMENTS ON THE ELEPHANT PROTECTION ACT (H.R. 2999)

This report opposes an ivory import ban to the United States for the following reasons:

- 1) The U.S. only consumes 12% of the world's ivory, too little to slow poaching in Africa.
- 2) A ban would give the illusion of strong U.S. action. In reality it would accomplish little except remove the problem from public attention.
- 3) The ban treats all African governments alike, no matter how conscientiously they adhere to trade conventions, or how good their conservation and management of elephants.
- 4) The ban ignores the cost to African governments of protecting lives and crops from elephants, and the importance of ivory revenues in offsetting that burden and conserving wildlife.
- 5) Unilateral U.S. action will weaken its role in bringing about more effective international trade regulations and conservation in Africa.

THE AFRICAN ELEPHANT CONSERVATION ACT

This report supports the proposed act in principle, but believes it will be ineffective because the U.S. lacks the leverage on world markets implied in the text. The revenue raised by ivory taxes and appropriations would have little impact on ivory poaching in Africa.

The changes recommended in the U.S. strategy include placing priority on tougher international legislation, urging CITES parties to insist on conservation and management plans for elephants as a precondition of trade between all signatory states, and raising tax and appropriation levels to \$10 million annually. This figure would secure the protection of some 250,000 elephants in 30 benchmark populations and, at the same time, conserve much of Africa's biological diversity.

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COMMENTS ON THE ELEPHANT PROTECTION ACT (H.R. 2999)

I share the widespread African sentiment that a United States ban on ivory imports would be counter-productive at this stage, no matter how well intentioned.

One can understand the anguish and indignation of the American public over the horrifying slaughter of thousands of elephants each year, and the sense of frustration and helplessness about what to do. The appeal of an ivory ban is that it satisfies public demand for strong United States action.

Most Africans and African governments share those same feelings. Africans no less than Americans want to conserve the elephant. Kenya, Tanzania, Zaire and Sudan among other countries have banned elephant hunting and ivory trading in recent years. Yet those bans have failed to slow elephant losses, just as a world-wide ban on rhino horn trading has failed to stem black rhino losses.

A unilateral United States ban on ivory imports would, in my estimation, be both ineffective and counter-productive for a number of reasons.

- 1) A ban would not significantly reduce world demand for ivory or, consequently, poaching, since the United States accounts for only 12% or so of the world volume, according to TRAFFIC's latest estimate. It may even be substantially less, given that the figure used for total world ivory trade cannot reliably estimate the size of the growing clandestine market.
- 2) A ban would give the illusion that the United States had addressed the problem, while in reality it would simply sweep it under the carpet without solving anything.
- 3) Worse, the ban treats all African countries alike, regardless of how conscientiously they abide by CITES regulations, or how much a ban would cost them. Zimbabwe, for example, has established sound schemes for elephant conservation and management which contribute to rural development and reduce poaching.
- 4) A ban ignores the steady flow of ivory that will always result from control schemes to protect lives, livestock and crops from elephants. Elephants, which number between 750,000 and 1,000,000, cause millions of dollars worth of damage each year as Africa's agricultural lands expand to feed its population. Crops and lives must be protected from elephants as a matter of priority. That adds additional costs in terms of manpower and equipment. The sale of ivory helps defray those losses and underwrite the cost of protecting elephants and other species in Africa. Elephants robbed of their economic value become a heavy financial burden to African nations, rather than an asset, and are no less vulnerable to eradication as a result.

- 2 -

5) Finally, unilateral action by the United States to ban ivory imports would weaken its ability to find more effective solutions in collaboration with African countries. It should be remembered that it was the African countries themselves which proposed the CITES ivory quota system as a way to combat poaching. They recognize its failings and are anxious to create a better system. In banning ivory imports and in encouraging other countries to do the same, the United States shows its unwillingness to improve CITES legislation as a matter of priority and, implicitly, expects African nations to bear the added costs of conserving and managing elephants.

In conclusion, I consider the better course of action is for the United States government to throw its full support behind various initiatives underway, with the caveat that it call for a universal moratorium in the event that African conservation measures and the CITES meeting of parties in October 1989 fail to produce compelling solutions.

AFRICAN ELEPHANT CONSERVATION ACTINTRODUCTION

The Elephant Conservation Act must fulfill two conditions in order to "perpetuate large and healthy populations of African elephants."

First, it must significantly lower global ivory consumption. Annual offtake is presently running at twice the level elephants in Africa can sustain. Populations are halving every 8 to 10 years as a result.

Second, it must significantly reduce ivory poaching. More than 80% of all ivory originates from poached elephants. Twice the number of elephants will be killed for ivory in 1988 as the African countries declare under CITES Ivory Quota Control System (IQCS).

The Act, which addresses both facets, is sound in principle. It adopts the notion that an ivory import tax or congressionally authorized appropriations will, implicitly, reduce ivory demand, and that the revenues, directed to field programs, will combat ivory poaching in Africa. Finally, the Act aims to reduce illegal trade through improved international surveillance by CITES and embargoes on ivory imports from countries delinquent in conserving elephants.

I therefore support the general approach set out in the draft African Elephant Conservation Act, with some important reservations. The following comments spell out why I think the Act, in and of itself, is inadequate, and how the United States can take stronger action to conserve elephants.

WEAKNESSES OF THE ELEPHANT CONSERVATION ACT

The Act will, as drafted, fail to reduce either the world ivory demand or lower elephant poaching to any appreciable degree. The legislation is based on the faulty premise that the United States "is one of the world's largest markets for ivory products." At the time the draft legislation was drawn up the United States was thought to consume 30% of the total volume of ivory traded worldwide. Recent TRAFFIC figures put U.S. consumption at 12%, based on the known world ivory volume. The figure would be lower still if unidentified trade, much of it within Africa, were added to the known total.

The U.S. market is, in other words, too small to have any appreciable effect on world demand, even if ivory imports were totally banned. By the same measure, the proposed \$10 per pound tax on processed ivory imports and \$5 per pound on raw ivory would generate no more than \$1.5 million annually, based on TRAFFIC's latest (1986) figures on U.S. ivory imports. This would add a mere 3.0% to annual conservation expenditures of around \$50 million in Africa (excluding South Africa), too little to dramatically slow ivory poaching. Finally, the same argument can be levelled at moratoria against imports from either producer or intermediary countries. The U.S. share of the world ivory market is too small to manipulate producer or consumer nations in the manner proposed.

Put another way, the United States impact on the world market is so small and loss of elephants so fast that even if the U.S. were to ban all imports immediately, the elephants spared would be killed for other markets within a year.

As drafted, I believe the Act will not only fail to achieve its objectives, but will divert public attention from the slaughter of elephants by salving the American conscience and leaving the burden of responsibility to other nations less able and, in some cases, less inclined to find international solutions.

RECOMMENDED U.S. STRATEGY AND AMENDMENTS TO THE ACT

Notwithstanding its weak leverage in the international ivory market, the United States can take far stronger action to conserve elephants. It can do so in three ways. First, by strongly supporting international efforts to control the ivory trade. Second, by pressing for elephant conservation and management plans in all producer countries as a precondition of importation into consumer nations. Third, by raising \$10 million under the Elephant Conservation Act to strengthen international ivory controls and improve the protection of elephants and biological diversity in Africa.

1) The United States should, as a matter of the highest priority, support broad-based efforts now underway to close the loopholes in CITES legislation. The African countries are considering a number of ways to monitor and reduce the illegal trade within the continent and internationally. IUCN, AERSG, Wildlife Conservation International, CITES agencies, World Wildlife Fund/TRAFFIC and other NGOs are thoroughly reviewing the ivory trade and its implications for elephant conservation, preparatory to CITES meeting of parties in October 1989. The review is investigating a range of options, from moratoria and bans to ivory cartels and ivory substitutes, for controlling the ivory trade. We should, by the time CITES parties convene in 1989, have a clear idea of what can be done about the illegal ivory trade without driving it underground and beyond control.

The United States should add its full support to these international efforts, reserving its option to impose moratoria (Section 201) in the event that the 1989 CITES meeting and producer countries fail to agree on workable solutions. I see nothing to be gained and a great deal to be lost by applying moratoria before then.

2) The Act's objective, "To perpetuate large and healthy populations of African elephants" is open to various interpretations and needs clarification. The elephant, with a population currently estimated between 0.75 million and 1.0 million, is more numerous than most other large terrestrial mammals. Inevitably, its numbers will decline sharply as agriculture and human activity expand to support Africa's growing population, reckoned to quadruple over the coming century. The question is, what constitutes large and healthy populations without retarding development?

It will be futile to try to preserve elephants on a continental scale until the ivory trade is under control. The cost would run to tens of millions of dollars, even if the political will were there. U.S. concerns should, therefore, focus on selected protected areas and ecologically important elephant populations. Africa's 380 plus parks and reserves could, if well protected, support over 500,000 elephants (50% of the estimated total Africa-wide). The survival of elephants elsewhere will depend on their relative cost and value to African nations and imaginative policies and planning. This is where U.S. influence, as outlined under section 104 of the Act, can be brought to bear in urging CITES parties to adopt management plans in producer countries as a precondition of trade between signatory states.

3) The revenue likely to be raised on ivory imports is too trivial to be worthwhile. I therefore recommend raising import taxes and appropriations high enough to give real protection to Africa's most important elephant populations and its biological diversity generally.

The proposed taxation amounts to 6% of the import value of carved ivory (approximately \$170 per pound). Taxes should be raised to \$80 per pound (approximately 50% of the import value), yielding approximately \$10 million annually. Even if the figure were somewhat less due to demand dropping with higher prices, the income generated could, for example, protect the 30 "benchmark" populations identified by IUCN's African Elephant and Rhino Specialist Group (AERSG). These benchmark populations, located throughout the elephant's range would conserve sufficient numbers (around 250,000) and genetic variation to secure the future well-being of the species. The protection of benchmark populations is, I consider, a necessary and affordable measure until such time as the ivory trade is brought under control and sound management policies are implemented to conserve the African elephant over most of its range.

Provision for benchmark populations would do more than perpetuate large and healthy populations of African elephants in minimum conflict with development. It would also support biological diversity generally, using the elephant as a flagship species. The benchmark populations were identified, among other criteria, by the overall biological importance and sustainability of each ecosystem.

Committee
for
Humane
Legislation

*The Committee is the
legislative arm of
Friends of Animals
conducting public
action to protect
animals.*

STATEMENT OF FRIENDS OF ANIMALS
COMMITTEE FOR HUMANE LEGISLATION

IN SUPPORT OF

THE ELEPHANT PROTECTION ACT
H.R. 2999

PRESENTED TO THE HOUSE MERCHANT MARINE
AND FISHERIES SUBCOMMITTEE ON
FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

FOR THE HEARING RECORD

JUNE 22, 1988

Leslie Fain,
Legislative Director

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Friends of Animals supports H.R. 2999, the "Elephant Protection Act" and applauds Mr. Anthony Bellenson and the over one hundred co-sponsors of his legislation.

The reason why Friends of Animals supports this legislation is that we believe it to be the most effective bill for the protection of the African elephant currently before the Congress.

Effectiveness is the most vital characteristic of current elephant protection legislation because of the critical status of this species.

African Elephant Status:

AFRICAN ELEPHANT POPULATIONS ARE CURRENTLY NO GREATER THAN 400,000, LESS THAN TWENTY PERCENT OF THE CONTINENT'S CARRYING CAPACITY.

Nearly all conservation authorities agree that the African elephant (*Loxodonta african*) numbered in excess of two million during the early 1970's when the current wave of mass killings began. Today, many authorities agree that the population has been diminished to about 750,000, primarily because of commercial exploitation to supply the ivory trade. This would suggest a decline to less than 40 percent of its former population. If the elephant were a marine mammal, such a decline would more than justify its legal designation as "depleted", which would then mandate a number of protective measures.

Friends of Animals has reason to believe that the elephant's status is much more serious than this. In preparation for this testimony we consulted with many authorities. One of these was Professor Pierre Pfeffer, Director of Scientific Research of the French National Museum of Natural History, and secretary general of France's National Society for the Protection of Nature. He has several decades of field research experience in the French-speaking countries of Central and West Africa.

Professor Pfeffer estimates that the present elephant population of Africa can be no more than 400,000. His research suggests elephant populations are reduced to less than 20 percent of Africa's present carrying capacity.

Professor Pfeffer argues that there is an essential English-speaking, East African bias built into population estimates which presume up to three-quarters of a million elephants in Africa.

The thrust of his argument is that most elephant censusing techniques have been developed by English-speaking biologists working in East Africa, where most habitat is open savanna grasslands. Their methodologies are appropriate for the habitats where they were developed. And their theoretical principles--such as "increased rain yields greater vegetative biomass which increases elephant carrying capacity" -- are entirely justified in the East African environment.

Correlation between rainfall and elephant populations may be appropriate in East Africa, which is a region where the great mass of vegetation exists between ground level and a height of

about four meters. This is vegetation which elephants can reach and can feed upon.

But he warns it is dangerous and inappropriate to apply such theories to the tall rain forests of Central and West Africa. Here, in the French-speaking part of the continent, he argues that most of the vegetative biomass is completely unavailable to elephants as food. It is simply too high for them to reach. Furthermore, areas of very high rainfall tend to have very poor soils and very dense forest canopies. This results in very little sunlight falling on a relatively infertile forest floor. And this means the forest floor can be a virtual desert with less vegetation available for elephants than the arid areas of East Africa.

Professor Pfeffer also points out that while many elephant population estimates for East Africa are supported by good census programs (in many reserves, the elephants can be individually counted), Central and West African population estimates are based almost exclusively on extrapolation of East African-biased theory. There are hardly any physical censuses of elephants in Central and West Africa to support population estimates.

Nevertheless, those who posit a population of three-quarters million elephants in Africa claim that the vast majority of these elephants are in French-speaking Central and West Africa. Such claims are based upon the inappropriate application of theory, inappropriate extrapolation of data from different habitats, and are not supported by reliable field studies.

Professor Pfeffer's estimates are based upon consideration of (1) the amounts of available, palatable vegetation, (2) a calculation of elephant losses suffered because of exploitation, and (3) his own and other's appraisals of the actual elephant population densities in the rain forests of Central and West Africa.

The Ivory Trade:

THE INTERNATIONAL TRADE IN IVORY IS RESPONSIBLE FOR THE DESTRUCTION OF MORE THAN EIGHTY PERCENT OF AFRICA'S ELEPHANTS DURING THE PAST 16 YEARS. CONTINUED TRADE WILL THREATEN THE SPECIES WITH EXTINCTION.

In 1972, when the current wide-spread exploitation of elephants for ivory began, the average tusk in trade weighed about 13 kilograms (28.6 pounds). It was worth about \$6 per kilogram (\$2.73 per pound).

By the early 1980's, the average tusk in trade weighed about 8 kilograms (17.6 pounds) and was worth about \$50 per kilogram (\$22.73 per pound).

In 1986, average tusk weight dropped to about 4.6 kilograms (10.2 pounds) and sold for \$104 per kilogram (\$47.27 per pound). In 1987, ivory auctioned by the Belgian government sold for \$147 per kilogram (\$66.82 per pound).

In 1988, the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) Secretariat reported ivory selling in the Far East for \$220 per kilogram (\$100 per

pound).

Average tusks weights are now near 3 kilograms (6.6 pounds) and a significant volume is being reported at less than 0.5 kilograms (less than one pound).

Ivory grows throughout the lifetime of the elephant, with most of the ivory being produced during the later years of life. The continuous decline in average tusk sizes suggest that most of the large, mature "tuskers" of Africa have already been killed off and that the ivory hunters are concentrating their efforts against juveniles and infants which have not yet reached the age of sexual maturity, and therefore have not the opportunity to reproduce. Elephants being killed before they have an opportunity to reproduce themselves poses a very serious problem for the preservation of the species.

Meanwhile, the application of elementary laws of economics suggest that a free market attitude toward ivory will intensify pressure toward extinction of the African elephant. As more elephants are shot for their ivory, the supply decreases, and consequently the price increases. Because the elephant's reproductive cycle is very long, the species has no possibility of rapid recovery, even if all exploitation is stopped immediately. This means there is no likelihood for increased ivory supplies in the near future, and consequently ivory has become a very "safe" investment.

Conversely, there is a very strong likelihood that the elephant population, and therefore the ivory supply, will

decrease in coming years. This should further increase the value of ivory as an investment commodity.

And this is precisely what Friends of Animals believes a major portion of the ivory trade has become -- an investment commodity. Investors who store large quantities of ivory stand to make very considerable profits as the elephant populations decline. The ultimate profits will come with extinction.

The U.S. Role:

THE UNITED STATES IS A MAJOR IMPORTER OF IVORY. MUCH OF THE IVORY LEGALLY ENTERING THE UNITED STATES SURELY COMES FROM ELEPHANTS KILLED ILLEGALLY, AND THEREFORE IN VIOLATION OF THE LACEY ACT.

The United States imports about thirty-two percent of the worked ivory in international trade. Some years, this amounts to about three million pieces of ivory. About ninety-five percent of this ivory comes from Hong Kong and carries legal export documentation from Hong Kong.

But there are no African elephants in Hong Kong. Therefore, all this ivory must be considered as a re-export.

Hong Kong, however, does not know the origin of much of the ivory it imports. Hong Kong participates in CITES as part of the United Kingdom. But Hong Kong local legislation interprets CITES to mean it must "control" (require appropriate CITES documentation) only raw ivory (unworked tusks). It does not control the importation of "worked" ivory because it does not

consider worked ivory to be a "readily" recognizable part or derivative" of a CITES-protected species.

Thus, Hong Kong can import worked ivory from elephants which have been illegally slaughtered, and then legally re-export it to the United States.

By tolerating this situation, the United States is supporting a trade which violates nature conservation laws of those African countries which want to protect their elephants. The United States is also disregarding its own policy as expressed in the Lacey Act.

Meanwhile, the U.S. lack of concern is being thoroughly exploited by the ivory trade. Earlier this year, the CITES Secretariat reported to the CITES Standing Committee that sixty-six professional ivory carvers have been transferred from Hong Kong to Dubai, one of the United Arab Emirates (UAE), and have set up an ivory carving industry in Dubai's "Free Trade Zone." UAE was formerly a party to CITES, but withdrew last year, on grounds that the approximately \$1,000 annual fee was too much an economic burden. Withdrawn from CITES, UAE is free to import as much ivory as it chooses, and carve it to meet the minimum requirements of Hong Kong's import laws. Shipped to Hong Kong, that ivory can then be legally entered into international trade and sold, among other places, in the United States.

The CITES Quota System:

CITES TRIES TO CONTROL THE INTERNATIONAL TRADE IN IVORY AS A

MEANS OF PREVENTING THE ENDANGERMENT OF THE AFRICAN ELEPHANT. TO DO THIS, CITES HAS ESTABLISHED A QUOTA SYSTEM. IT DOESN'T WORK.

After a decade trying various techniques to arrest the population decline of African elephants, CITES decided in 1985 to establish an international quota system by which various African countries could each export agreed-upon quotas of ivory annually. By 1987, when CITES experts had the opportunity to review all the trade statistics for 1986, they agreed that only 22 percent of the trade legally conformed to the quota system. The remaining 78 percent was clearly illegal. The system has many loopholes which have been thoroughly abused. It is presently impossible to close all the loopholes in the CITES quota system.

The ivory dealers are very sophisticated and manage to keep several steps ahead of any effort to control the ivory trade.

A couple of years ago, Singapore was cited as the Far East's ivory entrepot. Today, it is Hong Kong. But there are signs that Hong Kong may reform its legislation and establish controls over worked ivory.

Friends of Animals does not doubt that before the ivory trade is actually brought under control in Hong Kong, the dealers will have moved their base of operations to a more convenient location. South Korea, which is not party to CITES, would be one likely location. Or Taiwan, which cannot become a party to CITES because of the U.N.'s "two-China" policies, could also become a seat of the ivory trade.

Both of these countries are already involved in illicit

trade in wildlife. During the CITES Standing Committee meeting earlier this year it was revealed that a shipment of at least 100,000 crocodile skins illegally taken in South America was smuggled out and carried to warehouses in South Korea.

Taiwan's involvement in wildlife trade in recent years has been scandalous, and involves trafficking in various endangered species, including gorillas.

A final consideration should be given to corruption in some African countries. Granted that much of the illicit trade occurs because some African governments do not have the proper resources for effective enforcement. But also frequent is the fact that some governments in Africa are rife with corruption. Burundi is the most-frequently cited recent example.

When the CITES quota system came into effect, African governments had the opportunity to declare existing stocks of ivory, and enter these into trade. Burundi "declared" it had nearly 100 tons of ivory on hand, even though there were no living elephants in that country, and no other African country would acknowledge exporting ivory to Burundi. It was obvious that the ivory was poached, smuggled into Burundi and entered into legal trade by corrupt government officials.

A coup in 1987 ousted the former Burundi government and installed a new regime which, coincidentally "discovered" another 100 tons of ivory, which it attempted to have registered under the provisions of CITES. Although this was not granted, the new government still has the option of shipping it to Dubai for

cursory carving after which it can be shipped to Hong Kong, issued legal documentation and re-exported anywhere in the world, including to the United States.

At the 1987 meeting of the Conference of the Parties to CITES in Ottawa, Canada, Mr. Joseph Yovino, who directs the CITES ivory control unit, observed that "chances are that there are other Burundis in Africa."

Conclusions:

Current controls on ivory do not work. It is highly unlikely that they ever will work with any degree of effectiveness.

Most governments tacitly acknowledge this. One expression of this acknowledgement was seen when parties to CITES deleted the budgetary line item which would have provided funds for the ivory control unit. Instead of taxing themselves to pay for this office, the parties told the Secretariat that "external funding" should be sought to finance this operation.

If the parties truly thought the CITES ivory control unit was vital and effective, they would have assured its financial stability by retaining that budgetary line item.

CITES will not have an opportunity to reform its policies until the next meeting of the Conference of the Parties, now scheduled for November, 1989. Any resolution adopted then likely could not be put into effect until well into 1990.

And there is no guarantee that CITES will indeed act on this

issue even then.

Friends of Animals believes that there is a severe and immediate need to address the ivory issue now. Existing ivory trade control systems do not work. Because there are no effective controls, Africa's elephant population is being exploited intensely by traders who want maximum profits before effective controls are established. The longer the enactment of effective controls is delayed, the greater the injury which will be done to the African elephant. H.R.2999 addresses this issue, and provides at least an initial step in the right direction. Therefore Friends of Animals supports this legislation and encourages The Congress to pass it as expeditiously as possible.

Defenders - OF WILDLIFE

STATEMENT OF
M. RUPERT CUTLER, PH.D.
PRESIDENT
DEFENDERS OF WILDLIFE
BEFORE THE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
OF THE COMMITTEE ON
MERCHANT MARINE AND FISHERIES
OF THE U. S. HOUSE OF REPRESENTATIVES
CONCERNING H.R. 2999 AND OTHER PROPOSALS TO ENHANCE
THE CONSERVATION OF AFRICAN ELEPHANTS
JUNE 22, 1988

Mr. Chairman, I am Rupert Cutler, President of Defenders of Wildlife, an organization of 88,000 members devoted to the conservation of wildlife and protection of biological diversity. I appreciate this opportunity to submit testimony and request that the record be kept open for two weeks so that we and other interested parties can respond for the record to questions arising today.

Like many of the groups testifying today, Defenders has had a long history of involvement in the development and implementation of the Convention on International Trade in Endangered Species (CITES) and U.S. laws intended to conserve wildlife. We commend you, Mr. Beilenson, Mr. Fields, and other Members for devoting so much time and energy to the resolution of the issues before us today. Our thanks also go to every group testifying, despite their differences. These differences are diminishing, and the result will be a much improved outlook for elephant recovery.

The Conservation Fund

Defenders of Wildlife strongly supports the creation of a fund for elephant conservation and the direct inclusion in that fund of fines. We support a combination of direct appropriations, fines, and donations, rather than import duties. We suggest that the Secretary of the Interior be directed to work with the International Union for the Conservation of Nature (IUCN) Law Center as resolved at the Conference of the Parties to CITES in Ottawa to develop a range of options for funding and improved

enforcement, including fines, damage assessments, multilateral donations or matches, and so forth. The Secretary should also be directed to seek assistance from The United Nations and other international and transnational groups and to enter into cooperative agreements with individual countries to provide monetary and in-kind assistance for enforcement and other conservation measures. This assistance could include provision of anti-poaching personnel and equipment under the command of host country officers, whose teams are often outmatched in many respects by very well-equipped poachers.

We suggest the addition of language directing that any equipment, vehicles, or other property (other than elephant products), used in the course of or in furtherance of a violation will be seized, sold, and the proceeds devoted to the fund for the benefit of elephant conservation, or simply used immediately in the anti-poaching campaign if possible.

Elephant products seized and impounded should be made available for sale only in such a way as to directly offset ivory that otherwise would be harvested within a national quota in full compliance with CITES and this legislation.

If private persons have relied on certificates or permits issued in error or wrongfully by the U.S. government, and it seems there are numerous instances of this, then after the date of enactment, the ivory falsely certified should be subject to impoundment and the government required to award any good-faith permittee the fair market value of the ivory.

Trade Restrictions

It is essential that CITES be made to work. Its parties must develop a system to control or halt trade and take other effective steps to conserve wildlife. Defenders suggests that the importing of ivory from intermediate countries be banned as of January 1, 1989 unless the Secretary determines, based on substantial evidence on the record, that the country:

- 1) is a party to CITES;
- 2) is trading only in ivory from producer countries that are parties to CITES which are in compliance with the requirements of CITES;
- 3) is not otherwise in violation of CITES; and
- 4) has diligently investigated and prosecuted its nationals and others over whom it has jurisdiction who have directly or indirectly engaged in trade or taking which diminishes the effectiveness of CITES or any international program for elephant conservation to which that nation is a party.
(See Pelly Amendment Sanctions below.)

Worked ivory should be certified as having been worked or processed only in the country of export.

Defenders heartily endorses the concept enunciated by the World Wildlife Fund/Conservation Foundation (WWF/CF) of applying the principles of the Lacey Act to ivory trade by banning the importation of raw or worked ivory from a nation whose laws forbid its export. We suggest shifting the burden to the

would-be importer to demonstrate affirmatively that the ivory comes from a producing nation and was produced and exported in a manner that complies with that nation's requirements. We also concur with the WWF/CP suggestions regarding the need for increased control over raw ivory imports as a baseline for control in that area.

Defenders endorses the "Key Components" list on page 12 of The Humane Society of the United States (HSUS) testimony with the exception that the moratorium on ivory from intermediaries be subject to the exceptions outlined above, with the burden being on the Secretary to demonstrate compliance with each condition at least annually.

The Secretary should also evaluate the effectiveness of the CITES and U.S. restrictions on trade in light of the status of the elephant populations in Africa in advance of each Conference of the Parties. Further, the Secretary should consider the appropriateness of proposing to upgrade the African elephant to CITES Appendix I in consultation with the congressional committees of jurisdiction and interested non-governmental organizations.

Expanding the Controls to the Point of Retail

The Secretary should be required to develop and implement a documentation system that encompasses all ivory sold in the U.S. except for personal effects and estate sales of small amounts. This system should register all existing stocks of ivory by number of items and weight within six months of passage

and forbid the sale of unregistered ivory in the U.S. after that point. All importers of ivory should be asked to report their stocks to the Secretary or risk inability to market them here.

This system could be announced prior to the Conference of the Parties in 1989. After the Conference of the Parties in 1989, imports of ivory, worked or raw, should be traceable through the documentation to the quota of a particular party/producer. Such documentation or manifest systems are difficult to administer but not unprecedented. We use them for pharmaceuticals, radioactive and hazardous substances, and many items of value in commerce such as precious gems.

The Committee may decide that more time is needed or that it wants a report on options for implementing such controls first. But, in the final analysis, if this sort of system cannot work to better control the trade in ivory than we control it now, perhaps a ban on ivory imports is the only solution.

Pelly Amendment Sanctions

To ensure compliance with international wildlife protection agreements, the Congress has adopted legislation empowering the President to embargo wildlife products from any country whose nationals are found to be directly or indirectly engaged in trade or taking which diminishes the effectiveness of any international program on behalf of endangered or threatened species ("Pelly Amendment" to the Fisherman's Protective Act of 1967, 22 U.S.C. 1978).

Congress should require that within six months of enactment of this bill, regulations be promulgated to implement 22 U.S.C. Sec.

1978, as amended in 1979, and crafted so as to maximize their usefulness in regard to illegal ivory trade. Furthermore, the Secretary should submit to Congress at the same time a report and plan of action listing specific persons and practices and nations that may be subject to these sanctions because of their elephant-related activities. The Secretary also should report at the same time to Congress on the status of the monitoring program called for in the 1979 amendments, with particular attention given to steps taken to conserve elephants. Portions pertinent to prosecutions could be temporarily confidential to the committees of jurisdiction.

Citizen Suits

We understand that the petition process envisioned in the committee print is a constructive attempt to involve citizen groups. We also understand the reluctance of some who fear that citizens may be overzealous in their pursuit of perceived justice. However, the track record of executive branch enforcement and even its own compliance have been abysmal. Therefore, Defenders suggests that, in a move similar to what the Congress has done in the Clean Water Act and as California has done for a broader set of standards, the Congress in this instance provide that any person may sue any other person including the government to require compliance with the Act and to recover fees, costs, and civil fines that may be applicable. In addition to increasing the rewards for information, the Congress should provide that the courts or the agency may award up to one-half of

the fine recovered to the citizen-plaintiff if such an award is likely to contribute to enforcement of the law or conservation of elephants. The remainder would go to the Conservation Fund. This approach, called "Qui Tam" (short for "he who sues on behalf of the state as well as for himself"), was used to expand enforcement capabilities earlier in this country's history. (See In re Barker, 56 Vt. 14; Grover v. Morris, 73 N.Y. 478.) Such actions might be limited in their application only to commercial violators.

Recovery Plans

The Secretary, with the assistance of the Conservation Committee and experts from countries with elephant populations or potential populations, should be required to develop and implement a recovery plan for the African elephant by the end of 1998. This plan should include research and education concerning non-lethal means of harvesting ivory and non-ivory substitutes, as well as more basic management questions. Although there may be less that we can do for species overseas than for domestic species, it does not mean there is no need for a plan that outlines what we can do alone and together with other countries. This plan and revisions of it every five years should guide the grants program and other work of the Committee.

Consultation

The Committee Report should emphasize that the Secretary is expected to advise agencies that they should consult with the Secretary to ensure that their actions do not jeopardize African elephants. The Congress also should direct the Secretary to report within one year on the extent to which agency conservation programs under Section 7(a)(1) of the Endangered Species Act might contribute to elephant conservation.

Thank you, Mr. Chairman.

International Shooting & Hunting Alliance

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TESTIMONY PRESENTED TO
SUBCOMMITTEE ON FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT
OF
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES
ON
ELEPHANT CONSERVATION LEGISLATION
SUBMITTED ON BEHALF OF THE
INTERNATIONAL SHOOTING & HUNTING ALLIANCE
AND
GAME CONSERVATION INTERNATIONAL

June, 1988

International Shooting & Hunting Alliance

1825 K Street, NW, Suite 711 • Washington, DC 20006 • (703) 281-0209

Mr. Chairman:

On behalf of the International Shooting & Hunting Alliance (ISHA) and Game Conservation International of San Antonio, Texas, we thank you for the opportunity to submit testimony on elephant conservation legislation pending before the Subcommittee on Fisheries, Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee.

First of all, we applaud the Subcommittee for its concern for this special species of wildlife. We do have doubts, however, that the proposed legislative efforts will achieve the ends desired: to promote the conservation and professional wildlife management of the elephant and ban the illegal trade in ivory. Although H.R. 2999, the African Elephant Protection Act, and the Committee Print, the Elephant Conservation Act, take rather different approaches to solve the problems, they both fall short of effective measures on a global scale. In that regard, we believe that the most effective system to protect the elephant and decrease illegal trade and poaching, is to work through the framework of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

International trade in African elephant in the United States is controlled by the Endangered Species Act. Pursuant to regulations implementing the Act the elephant is listed as threatened. Further, only imports of raw ivory from African elephants will be permitted from countries that are a Party to CITES or from intermediary countries that are CITES Parties. Since the African elephant was listed

under Appendix II of CITES in 1977, export permits must accompany ivory leaving the African countries within the elephant range. Under the CITES procedure, the Scientific Authorities of the exporting countries must affirm that the export will not be detrimental to the survival of the species. In addition, in 1983 at the Meeting of the Parties of CITES in Botswana, it was determined that raw ivory must be marked to insure that the exported ivory is, in fact, that ivory indicated in the permits.

In 1985, at the Meeting of the Parties in Argentina, an Ivory Quota and Trade Control System was approved. Under this procedure which became operational in 1985, the Parties, and non-party nations cooperating with the program, establish an annual raw ivory export quota and the ivory set for export must be marked. The information is forwarded to the Secretariat of CITES who notifies the importing countries in order to verify shipments. All the information is computerized for the purpose of uncovering duplicate permits or markings on raw ivory. This procedure also allows the Ivory Trade Unit at CITES to monitor the raw ivory until it is converted into ivory products.

The system is obviously at its initial operational stage and adequate funding is a problem. The system, however, has already indicated that it can work. Refinement will be necessary as time passes but at the last Meeting of the Parties in Canada in 1987 further measures were adopted to materially assist the CITES effort. One of the obvious flaws in the system is the possibility of ivory products being exported from illegally taken raw ivory. CITES is aware of this problem and it is presently under study by the Secretariat.

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As this Subcommittee is aware, the illegal taking of wildlife that circumvents wildlife management programs and policies, is the fundamental evil that must be handled to insure the success of wise use of renewable wildlife resources. CITES has demonstrated that it can deal with such problems with the international cooperation of importing and exporting nations. Although the Ivory Quota and Trade Control System of CITES is in its formative stage, it has produced significant progress. Further, its existence and operation with the interest, participation and cooperation of the United States, encouragement to abide by the procedures by the range countries of the elephant is demonstrated.

It is also an established fact that the legal taking of elephants is a necessary wildlife management procedure in many of the range countries. The conservation by products of such culling is an important economic factor to these nations which translates into wildlife funding for those countries. Although ivory imports into this country represents a small portion of the total ivory exported from African countries, the influence of the United States within the CITES process is important. It is respectfully submitted that we can do more within the system than to abandon it by placing a total ban on imports or restricting trade.

Under the Endangered Species Act, adequate regulatory authority exists to monitor trade and continually review the biological status of wild populations of African elephant. If the CITES procedures do not prove to be materially effective, authority already exists to implement quotas, total ban or other procedures. To single out a specific species to be handled by legislation outside the commitment the United States has made to CITES is a dangerous precedent.

-4-

It has been demonstrated that this regulatory process can work as with kangaroos, leopards, polar bears and other species.

More to the issue, however, is that by binding the United States to a statutory formula concerning this particular species, we have not given the CITES procedure an opportunity to demonstrate its potential capability. There are admitted problems that have been identified and are being addressed. We should, as a significant and active participant in CITES, work to improve the system not abandon and ignore it. If it proves not to be effective we have the regulatory powers to achieve the same ends as are addressed in the legislative proposals pending before the Subcommittee.

Mr. Chairman, we thank you for the opportunity to submit this testimony.

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Working for the Nature of Tomorrow.



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COMMENTS OF
THE NATIONAL WILDLIFE FEDERATION
ON
THE CONSERVATION OF AFRICAN ELEPHANTS

FOR THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT
of the
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Prepared by

John Ernst
Legislative Representative -- Wildlife

and

Susan Warner

Fisheries and Wildlife Division
Resources Conservation Department
National Wildlife Federation

July 15, 1988

The National Wildlife Federation (NWF) appreciates this opportunity to comment on proposed legislation for the conservation of African elephants, including H.R. 2999, H.R. 4849, and other draft legislation. The NWF, with over 5.1 million members and supporters, is the nation's largest conservation-education organization. Our dedication to the conservation of wildlife species frequently extends beyond our national borders; the plight of African elephants is a world-wide concern which must be addressed.

African elephant populations have been reduced drastically within the past two decades; two African nations (Kenya and Uganda) have lost as much as 85% of their elephants in the last 15 years. Although human population growth contributes to this loss, the greatest and most imminent danger to African elephants comes from poaching. Motivated by the lucrative ivory trade, poachers kill tens of thousands of elephants every year and provide buyers with over 560 metric tons of illegal ivory annually.

Attempting to curb this massive illegal ivory trade, Africa's ivory-producing nations initiated an ivory control system under the authority of the Convention on International Trade in Endangered Species (CITES). The foundation of the ivory control system is that some wild elephant populations can sustain a controlled legal harvest. The potential for economic benefits of a legal ivory trade from a regulated

harvest provides incentives for countries to abide by the CITES agreement and to manage and conserve wild elephant populations properly. The legal harvest can also reduce the demand for uncontrolled, unlawfully harvested ivory. For these reasons, the NWF does not support a unilateral ban on importing ivory to the United States at this time. Ivory-producing countries that are seriously attempting to comply with the CITES system should be supported.

The effectiveness of the ivory control system depends on strong support from all CITES members, including the United States. This system cannot begin to eliminate the illegal ivory harvest as long as poachers continue to have a market for their illegal products. Ivory-producing countries which resist efforts to control poaching, and other countries allowing the importation of illegally harvested ivory should be penalized.

The NWF supports legislation that will prohibit the importation of raw ivory from anyplace except ivory-producing countries committed to the CITES system. We also support a ban on worked ivory from any country allowing the importation of illegally harvested ivory. Legislation should also prohibit the export or transit of raw elephant ivory from or through the United States.

The NWF recommends authorization of at least two million dollars per year over the next three years for the proposed Elephant Conservation Trust Fund (Trust Fund). The Trust Fund would provide financial and technical assistance to ivory-producing nations to aid in their anti-poaching efforts. Anti-poaching patrols are seriously under-paid and lack the proper equipment to take on the well-supplied poachers.

In conclusion, legislation is needed to improve the status of the African elephant. This is an urgent issue which requires immediate attention. Only a major international effort can phase out the illegal ivory market and prevent the continued decimation of the African elephant. This effort should include legislative action by ivory-trading nations and diplomatic and economic sanctions against nations that violate the CITES agreement. Because the future of African elephants is dependent upon international cooperation, the United States must take the lead and demonstrate a commitment to halting the illegal and uncontrolled slaughter of this remarkable species.



AFRICAN SAFARI CLUB
OF
WASHINGTON, D. C.

1730 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

June 15, 1988

Honorable Jack Fields
Member of Congress
413 Cannon House Office Building
Washington, D. C. 20515

Dear Congressman Fields:

I want to commend you for your sound and constructive approach to the goal of promoting more effective conservation of the African elephant. Your bill is an important first step in reducing the threat of eventual extinction of this magnificent species.

I have read the letter to you from Mr. Harry Tennison of Game Conservation International, dated May 24, 1988, and I agree with his analysis of the poaching problem and how best to curtail the devastatingly high level of poaching.

It is very clear to me that poached ivory tusks are being exported in large volume to East Asia, particularly Hong Kong. Carved ivory products are then shipped to the United States in substantial quantities. Indeed, the United States is a principal market for such products carved from poached tusks.

In view of the undeniable illicit trade in ivory tusks, the ideal solution would be to prohibit outright the importation of processed or raw ivory from countries that do not have an elephant population. Such a ban could be in the form of a moratorium for a fixed time period, subject to later review and reconsideration by the Congress and the Executive Branch. As a lawyer with some years of experience in the international field, I do not believe that a limited moratorium would violate our GATT obligations. To the contrary, such action would be in furtherance of international law, including the policies, objectives and provisions of CITES.

Honorable Jack Fields
June 15, 1988
Page 2

A further important step would be to make legislative provision for a revolving trust fund, supported by private contributions and limited government assistance, to provide financial aid to elephant management and enforcement programs in Africa. Specifically, such funds would provide--

1. Payments to local game officials or others who apprehend poachers;
2. Payments to finance anti-poaching equipment and personnel; and
3. Payments to finance other elephant conservation measures.

The "limited government assistance" I have in mind for the revolving trust arrangement would consist only of authorization to design and produce an elephant conservation stamp that could be sold to private donors along with art prints suitable for framing. Substantial funds for the revolving account could be raised in this manner.

Your bill might also contain a provision authorizing the Secretary of the Interior to appoint an advisory committee to review designs for the stamp submitted by prominent wildlife artists. A winner of this competition would be selected by the advisory committee. Wildlife art of the Robert Bateman quality would be the Committee's objective.

Most importantly, any such advisory committee should be broadly representative of interested groups--conservation organizations, sports hunting groups, wildlife artists, and the like.

Mr. Congressman, the matter of elephant conservation is or should be a subject that all nature-loving Americans can agree upon. As Secretary of the African Safari Club of Washington, I feel my interest and support are identical to other conservation groups, including those opposed to sports hunting. I hope and believe a consensus can be found and that all interested parties can get behind your bill with 100 percent support and effort.

Honorable Jack Fields
June 15, 1988
Page 3

I hope you will include this letter in the transcript
of the hearing to be conducted on your bill in the near future.

Respectfully submitted,

Dave Murchison
David C. Murchison
Secretary

ak



The Humane Society of the United States
2100 L Street, NW
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July 8, 1988

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Gerry E. Studds
Chairman
*Subcommittee on Fisheries and Wildlife
Conservation and the Environment*
U.S. House of Representatives
Longworth HOB 1334
Washington, DC 20515-6230

Dear Congressman Studds:

Thank you very much for the opportunity to testify before the Subcommittee on Fisheries and Wildlife Conservation and the Environment on the matter of elephant protection legislation. I sincerely hope that the testimony presented and subsequent discussions were useful to members of the Subcommittee, and that legislation will be passed that provides the level of protection necessary to help prevent the decline towards extinction of the African elephant.

In answer to Congressman Bob Clement's question, "What effect would a ban by the U.S. have on the market and on the CITES regulatory system?"

A ban by the United States will have a significant effect on both the world market and CITES, on both symbolic and practical levels. The initial effect will be to make a strong statement about our commitment to ensuring the long term survival of healthy elephant populations in Africa, and to ending the slaughter of African elephants for their ivory. Such legislation will send a strong message to the traders that the United States will no longer be a part of the poaching problem. Certainly other wealthy consuming nations, particularly those within the European Economic Community, will be encouraged and stimulated to follow our lead, and to enact similar legislation.

Congressman Studds
 July 8, 1988
 Page Two

A ban on ivory imports will also send a message to the CITES Secretariat that the Ivory Quota System, however well-intentioned, has not succeeded in limiting the illegal trade or preventing the serious decline in African elephant populations, and that stronger measures are necessary. We will also thereby send a message to African countries that we are committed to helping them stop the poaching of their wildlife resources. The continued slaughter of elephants for the ivory trade, which is stimulated by the demand here in the United States, poses a serious threat to growing tourism in African countries that are committed to protecting their elephants and other wildlife.

As a major consumer nation of worked ivory, we contribute to the poaching of elephants by perpetuating a market-driven demand. Since the U.S. imports more than 90% of its worked ivory from Hong Kong, when we are no longer part of the market, Hong Kong merchants will import less ivory from Africa; this decreased demand may work its way back to the poachers, who will kill fewer elephants. We recognize that no legislation can ever end all illegal trade, but a complete ban on ivory imports is the only potentially effective way to begin to halt the slaughter of elephants for their ivory.

Enforcement of wildlife importation is often difficult. I discussed in my oral and written testimony before the Subcommittee many of the shortcomings of the Fish and Wildlife Service (FWS) in terms of enforcement of existing CITES requirements. Any additional legislation that falls short of a total ban will continue to be sporadically enforced by the FWS. Even with the best of intentions, enforcement of a ban on one country but not another is difficult. For example, if importation from Zimbabwe is legal but from Sudan is not, an exporter has merely to declare that the shipment originated in Zimbabwe. It is up to the FWS inspector to assess the legality and veracity of accompanying documents. The easiest enforcement tool and the one with the greatest potential positive impact on elephant populations is a total ban.

In answer to your questions referring to shipments of ivory into the U.S. of questionable legality:

In my testimony, I referred to shipments into the United States of questionable legality. I referred to shipments listed as coming from "Country of Origin-Unknown". I referred to shipments admitted in April, 1988, as a representative sample. The Fish and Wildlife Service can provide the Subcommittee with the information for other months as well.

Congressman Studds
July 8, 1988
Page Three

The shipments from unknown countries of origin I referred to were as follows:

1. Ivory carvings: 4/13/88 Country of Export: Great Britain
Permit #: 017089A
Control Number: 587,195
2. Ivory carvings: 4/19/88 Country of Export: Great Britain
Permit #: none given
Control Number: 595,522
3. Ivory carvings: 4/5/88 Country of Export: Hong Kong
Permit #: none given
Control Number: 585,531
4. Ivory carvings: 4/7/88 Country of Export: Japan
Permit #: TKO-S-88-50034W
Control Number: 587,741
5. Ivory carvings: 4/13/88 Country of Export: Japan
Permit #: none given
Control Number: 590,387
6. Ivory carvings: 4/12/88 Country of Export: Japan
Permit #: none given
Control Number: 591,535
7. Ivory carvings: 4/7/88 Country of Export: Monaco
Permit #: 98000
Control Number: 585,668
8. Ivory jewelry: 4/25/88 Country of Export: Hong Kong
Permit #: 526045
Control Number: 593,327
9. Leather products: 4/27/88 Country of Export: Great Britain
Permit #: 017505A
Control Number: 591,029

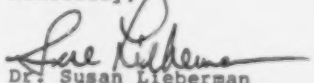
Congressman Studds
July 8, 1988
Page Four

I also referred in my testimony to other shipments of questionable legality. I am enclosing copies of import documentation for 30 ivory product shipments from 1987. I have selected these as a representative sample of typical shipments. You will note that most of the shipments contain no CITES documentation from the country of origin, and some contain none at all. There is no evidence that the country of origin listed on the import documents is the one that exported the raw ivory that this jewelry was carved from, or that the original shipment of raw ivory complied with the CITES Ivory Quota System.

You will note shipments with CITES documentation certifying that the original raw ivory originated in "Unknown via Burundi, which is currently a member of the Convention on International Trade in Endangered Species..." I have included a shipment with no CITES documentation, and a Country of Origin declaration of "Africa". I have included the documents from a very large shipment with Country of Origin declared as Hong Kong, and no CITES documentation; the Central African Republic is declared on the exporter's certificate of origin, but there is no evidence documenting this assertion. The general pattern, as I indicated in my testimony, is a "fill-in-the-blank" Country of Origin declaration by the ivory exporter, with no documentation whatsoever that the country of origin complied with CITES requirements, or that the shipment even originated in the country indicated. It is incumbent upon the Fish and Wildlife Service to require more documentation of the origin of Appendix II shipments before clearing them for importation into the United States.

Thank you very much for your efforts and those of the Subcommittee on behalf of elephant protection. Please let me know if I can be of any further assistance.

Sincerely,


Dr. Susan Lieberman
Associate Director
Wildlife and Environment



Safari Club International

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June 29, 1988

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The Honorable Gerry E. Studds, Chairman
Subcommittee on Fisheries and Wildlife
Conservation and the Environment
Room H2-543
U.S. House of Representatives
Washington, DC 20515

RE: Hearings on elephant legislation

Dear Mr. Studds:

As you are aware, Safari Club International agreed with your staff not to push the issue of giving oral testimony at the hearings which you held last week on the subject of elephant conservation. We did this in deference to your desire to keep the hearings short. Nonetheless, we wish our views to be considered when the subcommittee goes to markup on the bills before you. To that end, we submitted our testimony in writing (copies were given to your staff, at the hearings). We would like to supplement that testimony with some brief additional views.

First, we were very pleased to see Mr. Nduku of Zimbabwe on the witness panel. When we drafted our testimony, we did not know that he would be included as a witness. Mr. Nduku is an experienced professional wildlife manager in a country that has an excellent reputation for its wildlife management programs. We urge the committee to consider his testimony carefully, and to seek further consultations with other African wildlife managers.

Mr. Nduku was asked, at one point, whether he thought that a ban on ivory trade with intermediate countries was appropriate. His only response was to say that if we felt we must ban such trade, go ahead and do it, just do not ban trade with raw ivory producer nations. After the hearings I spoke with Mr. Nduku about his response. I asked him if he had considered the impact on his country's trade (a producer nation of raw ivory) if trade from non-producer states (non-producers of raw ivory, that is) was stopped or seriously hindered. He said he had not considered that. He agreed that it was possible that such a move would diminish the value of legal ivory,

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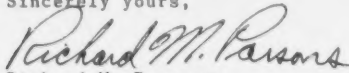
and that the value of poached and smuggled ivory would climb. This would hurt the raw ivory trade of producer nations, by reducing the legal value of elephants, and encourage poaching and smuggling. We encourage the subcommittee to take such possibilities very seriously, and to assure that any legislation which you report out allows investigation into such disastrous possibilities before action is taken.

We would also like to comment on the suggestion by the World Wildlife Fund regarding a ban on all ivory trade with countries outside the CITES ivory control system. However, there is some legal sport hunting of elephants outside of the countries which participate in the ivory control system of CITES. The importation of sport hunting trophies from such countries is legal under CITES (we would remind the subcommittee of Mr. Bavin's accurate observation -- the ivory control system is not law, it is a recommendation of the CITES parties).

Of course, we are in favor of any move to stop poaching and smuggling of elephant ivory. But we are not in favor of moves that interfere with the legal sport hunting of elephants. It is well known that sport hunting provides an important value for the conservation of elephants, through the trophy and license fees, and that the presence of hunters in the field keeps poaching quite limited. We raise this point because there are 10 countries which are party to the CITES ivory control system, but elephants are legally hunted, and the ivory sport hunting trophies are legally imported, from other countries as well, such as Ethiopia and Zambia. If the subcommittee reports out a bill with such a ban, it should contain an exception for sport hunting trophies taken legally and imported legally under CITES.

Thank you for considering our original testimony and these additional views. We reiterate our support in concept for the committee print, but also reiterate our opposition to bans (even the kind of administrative moratoria proposed in the committee print). We would be glad to work with the staff and to provide any additional information that they require.

Sincerely yours,



Richard M. Parsons
Counsel to the Governmental Affairs Committee

7034716485

RICHARD PARSONS

08/05/88 16:41

P02



Safari Club International

(A NEVADA CORPORATION)

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Richard Parsons

August 5, 1988

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The Honorable Gerry E. Studds, Chairman
Subcommittee on Fisheries and Wildlife
Conservation and the Environment
Room H2-543
U.S. House of Representatives
Washington, DC 20515

RE: Comments on Elephant legislation

Dear Mr. Studds:

Safari Club International would like to go on the record regarding H.R. 2999, a bill on elephant conservation, which your subcommittee recently reported out. After consultations with our headquarters staff, we have decided that we can neither support nor oppose the version which was reported out, even though we supported the Committee staff draft which preceded that version.

We supported the earlier Committee staff draft because it made good sense for the conservation of elephants. The tax provision in that bill recognized that the elephant has a "real-world" value, and that that value could be put to work for the conservation of the elephant. As sportsmen and conservationists, we were ready, as usual, to do our share in paying for the conservation of wildlife. The money which would have been raised by the tax would have offered a realistic possibility of carrying out some actual programs, both in CITES and in the countries where the elephants are found.

The version of H.R. 2999 as reported out did not have the tax provision. We understand that the tax provision was probably removed as a compromise with the "protectionists," as we call the Humane Society of the United States and its allied groups. We are also aware that the bill, as reported out, contains an exception which protects the sport hunting of elephants from the imposition of a moratorium. This is fine, and we appreciate the recognition of the benefits of sport hunting in the conservation of elephants.

Nonetheless, we feel that any effective legislation for the conservation of elephants must recognize the wildlife

management principles which apply in Africa. These principles have been proven in many situations. Very simply, the principles are that a ban on a desired wildlife commodity simply drives up the price of the commodity and makes enforcement nearly impossible, while recognition of the value of wildlife provides an incentive to local wildlife management and offers a better possibility of control.

We hope that if the bill becomes law, the Secretary of the Interior will use his authority to impose moratoria in an intelligent and informed manner. We hope that he will consult thoroughly with African wildlife managers, and will apply proper principles of wildlife management in coming to his conclusions. You can be assured that we will do everything in our power to influence him in that direction. Unfortunately, we are very familiar with the realities of "wildlife politics" in Washington, at the agency level. Therefore we fear that the emotional and self-serving arguments of the protectionists will hold sway.

It was a pleasure to work with the various staff members on this bill. They showed a great deal of concern for the issue and a willingness to listen to our views. We recognize that they worked hard to try to balance the various views that were put to them.

We encourage you to maintain oversight on the administration of this bill, should it pass, and to be particularly concerned about the effective implementation of the principles of wildlife management. This bill and others like it provide an opportunity for the United States to take a leadership role. We feel that this leadership should be exercised in concert with those responsible for wildlife matters in other countries, and that we should avoid positions which are unrealistic and overbearing. This is in keeping with recent resolutions of the parties to CITES regarding the imposition of bans.

We appreciate the opportunity to express our views during the consideration of H.R. 2999, and at this time. We will continue to participate in the spirit of the constructive application of proper principles of wildlife management.

Sincerely yours,

Thomas Bupkowski (for)

Richard M. Parsons
Counsel to the Governmental Affairs Committee



THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportman to hunt, to fish and to trap.

1000 Connecticut Avenue, N.W.
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Washington, D.C. 20036
202/466-4407

July 11, 1988

The Honorable Gerry E. Studds
U.S. House of Representatives
237 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Studds:

On behalf of the Wildlife Legislative Fund of America I would like to express our general support for the "Committee Draft Bill" regarding African elephant conservation. We believe this measure will provide substantial benefits to African elephants -- much more than a complete import ban as promoted by animal rights organizations.

Although the bill could use some fine-tuning, we would like to see it passed as soon as possible and would like to aid you in that endeavor. Please let me know what we can do to help.

In the meantime, please accept the enclosed letters for your reference. If they could be inserted into the hearing record I would be most grateful.

Sincerely,

Carol A. Porter
Director, National Affairs

Enclosures

11a Old Catton Road
 Mount Pleasant
 Harare
 Zimbabwe
 15 December 1987

Carol A. Porter
 Director of National Affairs
 1612 K Street, Suit 1101
 Washington D.C. 20006
 U.S.A.

Dear Carol

Thank you for your letter of November 13, 1987 and the enclosed African Elephant Conservation Act, which were here on my return from a recent brief trip to Malawi. My thoughts on this draft are as follows:-

1. Declaration of Purpose

(b) (2) is an over simplification of reality and tends to perpetuate the idea that the ivory trade is the only threat to elephant numbers. If we take this country as a fairly typical example of numerical trends in elephant populations, we find that numbers here were low at the turn of the century when human populations were also low (approximately 0,5 million.) The elephant population entered a phase of exponential growth around the 1940s and 1950s when the human population of about 4,5 million was also expanding rapidly, compressing the elephant into marginal lands. By the 1960s, we were shooting elephant in large numbers to make way for settlement.

In this context, it is perhaps relevant to note that elephant place a severe social cost on the people who share their habitats and that unless the animals have a value, they will continue to be eliminated from the 95% of sub-Saharan Africa outside strictly protected areas. The higher their value, the better chance they will have in competing for space with the cow and the plough. We therefore need a regulated trade.

(b) (4) The initiative came from African range states and this should be acknowledged.

(b) (5) This provision should follow the lead given by CITES where producer nations have a democratic voice.

Section 3

(d) (iii) Provision should also exist to assist range states market their elephant products more efficiently and to promote co-operation between states in this marketing. One of the problems highlighted by Rowan Martin's report was that producers and Governments often have little idea of the value of their

elephant. Poachers, dealers and the like are therefore able to take them for a ride with the result that elephant are undervalued domestically and the benefits from them are diverted away from the people best able to conserve them.

(d) (v) Insert " may require" instead of " shall " in line 3. There is little point in legislating for the impossible, or in fooling ourselves. There is no known way of counting elephant in equatorial forest for example.

I trust the above ideas are of some merit in developing what could be a very useful legislative contribution to elephant management.

Yours sincerely

Graham
GRAHAM CHILD



FONDATION INTERNATIONALE POUR LA SAUVEGARDE DU GIBIER
 INTERNATIONALE STIFTUNG ZUR ERHALTUNG DES WILDES
 INTERNATIONAL FOUNDATION FOR THE CONSERVATION OF GAME

Carol PORTER
 THE WILDLIFE LEGISLATIVE FUND OF AMERICA
 1000 Connecticut Ave., N.W.
 Suite 1002
 WASHINGTON, D.C.
 U.S.A. 20036

bdc/oc

Paris, January 25th, 1988

African Elephant Conservation

Dear Carol,

Thank you for sending me the draft legislation which might be considered by the US House of Representatives.

This draft is, in our opinion, very interesting indeed.

As you know, our Foundation has been involved with the African countries for more than five years in developing what has now been adopted by the Conference of the Parties of CITES as a complete set of measures to set quotas for the management of elephant populations within Africa and control measures to curb the illegal ivory trade which had been flourishing since the 1970s.

These measures, which are fully in application since January 1987, are starting to bear fruit and we hope, are going to succeed to enforce proper management of the African Elephant and to close down illegal trade and poaching to a very small fraction of what it used to be.

Attaining this objective will however require the continued help of all ivory and elephant product importing countries.

The United States is one of those countries and the proposed legislation would be a definite step forward.

As you know, following possibly the suggestions made earlier by our Foundation, a proposal was submitted to the Plenary Conference of CITES last July by the Delegation of Uruguay suggesting the levy of an import tax on all imports of wild flora and fauna, this proposal being made primarily for the funding of the functioning of CITES itself, which indeed is indispensable.

The draft legislation which you sent me foresees only expenditures from the Trust Fund for the benefit of elephant conservation and management programs and my first suggestion would be that possible expenditures to be envisaged should be broadened to include participation in the financing of the Ivory Control Unit at the CITES Secretariat, as well as participation in the financing of the African Elephant Specialist Group of the IUCN Species Survival Commission.

PRÉSIDENT FONDATEUR : S.A.I. LE PRINCE ABDORREZA

.../...



Both these structures are indispensable for long term conservation of the african elephant.

To go back to programs, our experience has been that the projects which are successful in the field, particularly as to the suppression of illegal hunting, are those which involve local people. This was very much stressed at the meeting we have just organized in collaboration with FAO, with the participation of 27 Sub-Saharan African States.

In particular, the Luangwa Integrated Rural Development Project (LIRDP) funded by Norwegian Bilateral Aid, has demonstrated in Zambia that the level of elephant poaching decreased by nearly 90% when local villagers were given ownership of the live elephants and were promised the benefits generated by their management. You will find enclosed the report in reference. The same dramatic decrease in elephant poaching was experienced in Zimbabwe under the "Campfire" Program.

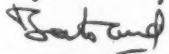
These results are to be compared with the situation in Senegal where very large amounts of money spent on equipping anti-poaching patrols and game wardens have not succeeded in stopping the trend towards total extermination of elephants by poachers. There are today only an estimated 40 elephants left in the country.

We would therefore strongly urge that the US Fish and Wildlife Service inform itself fully of the above-mentioned projects.

Finally, just a point of detail in Title II of the Draft Legislation : suggested figures for the excise taxes on elephant products. It would seem that rather than giving a figure of Dollars per pound of ivory or \$ per sq. foot of skin, it is a much simpler system to do as in the Pitmann Robertson Act and take a percentage (for instance 10%) on the sales value of the goods themselves. This solution suppresses any discussion on number of sq. feet of elephant skin used for a handbag for instance or whether an intricately carved ivory object should not be taxed more than a raw piece of ivory of identical weight.

Thank you for keeping us informed.

Please transmit our congratulations to the promoters of this legislation which no doubt would constitute a major breakthrough for wildlife conservation in developing countries.

with my best regards,


Bertrand des CLERS
 Director

- Encls. : 1/ LIRDP - Zambia Report at Harare
 2/ Plen. 6.8 Annex 2 - CITES Conf. of the Parties (Ottawa, Canada, July 1987)
 3/ List of participants in the Harare Symposium
 4/ Recommendations adopted

GOVERNMENT OF THE REPUBLIC OF ZAMBIA
THE LUANGWA INTEGRATED RESOURCE DEVELOPMENT PROJECT
 A BRIEF PRESENTATION

1. Introduction

This document is designed to introduce the Luangwa Integrated Resource Development Project in the Republic of Zambia, to underline why it represents an important experiment in the integration of conservation with development, to outline progress achieved during its design phase and to set out in brief its requirements in the coming years. It is intended as no more than a short introduction; considerably more information on all aspects of the project is available on request from the project office or from IUCN.

2. What is LIRDP?

The Luangwa Integrated Resource Development Project (LIRDP) is operated by the Government of the Republic of Zambia, for which the responsible authority is an Steering Committee at central Committee and Ministerial level, chaired by His Excellency the President of Zambia.

As His Excellency has stressed, LIRDP is a people's project. The goal of LIRDP is to render the project area self-sustaining with respect to environmental, economic and human resources. Its objective is to improve the standard of living of the people of the project area through sustainable use of the full range of natural resources available to them, including agriculture, forestry, fisheries, water, and wildlife.

For this to be possible, the first phase of the project has focussed on the development of a series of mechanisms for co-ordination, consultation, and participation in the taking of decisions which will ensure the active participation and support not only of the agencies of Party and its Government at the central, provincial and local levels but also of the Traditional Authorities whose role in determining the acceptability of new developments is essential.

LIRDP is a trial in the application of Zambia's national policies of DECENTRALISATION and DIVERSIFICATION to the less developed rural areas, particularly those with important non-agricultural resources. The project will develop and implement a wide range of development and resource management activities in the target area, including but not confined to the following: land-use planning, infrastructure improvement, crop diversification, co-operatives development, women's activities, wildlife utilisation and tourism planning.

Most of the activities will be carried out by the communities themselves, with the technical and administrative support of the project and occasionally with initial investment from it. The emphasis is on creating self-sustaining capabilities, and a revolving fund has been established to facilitate this process by ploughing back revenues generated in the

area to the area. Should LIRDP prove successful, it is the intention of GRZ to apply the same approach to other rural areas in Zambia.

The project area (see map) includes the South Luangwa National Park and the contiguous Lupande Game Management Area, a total of 15,000 square kilometres covering parts of the Eastern, Central and Northern Provinces of Zambia. The population of the immediate project area numbers around 28,000 but it is anticipated that the benefits of the project will eventually extend to a considerably greater population in adjacent areas.

The Zambian Government attaches great importance to the approach being pioneered by LIRDP; the substantial contribution it has made to the project from the national budget, to date amounting to 1.35 million kwacha in addition to salaries and infrastructure, bear eloquent testimony to this commitment.

3. What distinguishes LIRDP from other integrated rural development projects?

LIRDP is distinct from the Integrated Rural Development Projects that are in operation in Zambia. These projects emphasise development of conventional agricultural resources within the District Council framework, while LIRDP emphasises sustainable use of non-agricultural resources, (ie wildlife, forestry and fisheries), as well as agricultural resources, seeking by means of the revolving fund, to use them as the engine driving the economy of the undeveloped rural areas.

In this way, LIRDP not only responds to the government's aim of promoting rural self-sufficiency, but it also aims to integrate the full range of wild resources within the livelihood systems of the people in the project area, indeed, LIRDP aims to provide direct benefits to the people of the project area from their proximity to a major protected area, thus underlining the fact that allocation of resources to conservation need not penalise the people of the area.

In addition, LIRDP provides an innovative and promising model for realising in practical terms the widely accepted policy of integrating conservation with development, that is, of promoting sustainable development. This is a highly attractive feature of LIRDP since elsewhere it has proved far easier to recognise the wisdom of the policy of sustainable development than to devise mechanisms for putting that policy into practice.

4. How does LIRDP fit with GRZ policies and priorities?

The Government of Zambia attracted world attention when it became one of the first countries to make active follow-up to the World Conservation Strategy. Zambia's National Conservation Strategy (NCS), endorsed by Cabinet in 1985, provides a framework for reconciling the process of socio-economic development with the ability of Zambia's natural resources to sustain this development in the long term.

The Zambian NCS is now Zambian Government policy. To make this policy a reality, the NCS recognises the urgent need for practical implementation in the form of pilot projects on the ground which demonstrate the real benefits of reconciling conservation and development through sustainable use. LIRDP is regarded as a crucial element in the implementation of the NCS and, as such, represents an important priority to the government.

Second, Zambia's Third National Development Plan launched the new policy directives of DECENTRALISATION and DIVERSIFICATION. LIRDP, in seeking to render the project area self-sufficient while raising the standard of living of its inhabitants, provides an important example of the application of the policy of DECENTRALISATION. Indeed, the administrative and decision-making mechanisms being established for the project represent an innovative and potentially important experiment in the practical organisation of DECENTRALISATION which might offer important lessons for the country as a whole, and perhaps, for other developing countries.

In seeking to make sustainable use of the full range of natural resources of the area including wildlife, LIRDP is bringing into the local economy a set of resources not usually recognised as such in conventional development planning and often rendered unavailable by conservationist legislation. LIRDP is in this way helping the rural communities to diversify their economic base and demonstrating that sustainable use does not always signify increased restrictions on utilisation. Through this application of the policy of DIVERSIFICATION, many natural resources will be introduced into the economy or their rate of use increased. This is a key difference between LIRDP and the classical Integrated Rural Development Projects which rely on the development of conventional agricultural resources.

5. What has happened so far?

LIRDP originated from the Lupande Development workshop in 1983 which examined the problem of reconciling conservation and development in the Luangwa valley. The workshop led to two initiatives:

First, the Department of National Parks and Wildlife Services (NPWS) initiated the Lupande Development Project. This is a three-pronged approach to involving local communities as Participants and beneficiaries in the management of wildlife resources. It includes a safari hunting scheme and a hippo culling scheme that channel revenues from wildlife to the community concerned, and a village scout programme enabling communities to help protect their wildlife resources.

Second, a feasibility study of a more extensive integrated resource-use programme was carried out in 1985 by Dr. T. Larsen and Mr. F.B. Lungu with support from NORAD. The report was accepted by His Excellency the President of Zambia and forms the basis for the development of LIRDP.

LIRD was formally initiated in May 1986 by His Excellency the President who defined the project area, nominated himself as the Chairman of the project's Interministerial Steering Committee, delegated administrative responsibility for the project to two Co-Directors responsible to the Permanent Secretary, National Commission for Development Planning, and gave instructions for the establishment of an LIRD revolving fund.

By May 1986, Mr. F.B. Lungu and Dr. R.H.V. Bell had been appointed as Co-Directors, while an agricultural development officer and a wildlife coordinator were nominated. The secondment of full-time accounting, procurement and support staff is currently in progress.

GRZ has made a major contribution to the initiation of the project from its limited resources: through secondment of staff, through allocation of office space in Chipata, third in allocation of 1.35 million kwacha to the costs of the project.

Major contributions have also been made by NORAD in purchasing materials and three vehicles, in assisting with running costs, in supplying the salary of one Co-Director and in providing funds for cooperatives development under LIRD. Further contributions have been made by WWF-International and WWF-USA while IUCN has assisted in liaison with donor agencies.

Action to date has focussed on putting in place an organisational structure that will allow LIRD to achieve its objectives by coordinating the programmes of existing Party, Government and Traditional authorities at the level of the project area. This consists of the Steering Committee at Central committee and ministerial level chaired by His Excellency, to which an Advisory Committee at Permanent Secretary level acts as a secretariat and provides guidelines on technical issues. The programmes of technical departments in the area, (ie Agriculture, Wildlife, etc.), are developed, approved and monitored by a set of technical sub-committees of the Advisory Committee, on which members of LIRD are represented together with members of the departments. Emphasis is placed on active participation by local communities through a Local Leadership sub-committee comprising Chiefs, Ward Chairmen, the Member of Parliament and the District Administration of the project area. This sub-committee provides the channel of input from the grass-roots level via the section, branch and ward development committees.

Further actions taken by LIRD to date include:

Using the above organisational structure, preparing work programmes and budgets for the implementation phase of the project;

Initiation of a small pre-cooperative horticultural scheme to improve incomes and nutritional levels;

Lease of the safari hunting rights for the Lower Lupande Hunting Block to provide revenues for programme management and for community development projects to be identified by local leaders;

Conduct of an aerial survey of elephant and rhino in the area to assess the status of these two key species; and,

The initiation of a road upgrading and maintenance programme in the area.

The preparatory phase of LIRDP will end in June 1987 with a major workshop involving government participants, local representatives and potential donors, with the objective of confirming consensus on the structure and programmes of LIRDP and allowing potential donors to assess their future commitments to the project. The workshop will mark the initiation of Phase 2 of LIRDP, a 5-year phase of project implementation with external inputs.

6. What is expected of Phase 2?

The primary objective of Phase 2 is to put in place a self-sustaining system in terms of the environment, the use of resources, economic viability and skilled manpower.

This will require:

First, strengthening and adjustment of the organisational structure devised for LIRDP with the object of progressively delegating control of resource-use to local communities, with technical support and safeguards supplied by government agencies and with emphasis on recycling of revenues to local communities. This may require introduction of new legislation, perhaps in the form of an authority.

Second, the development of a land-use plan through the organisational mechanisms adopted, to reduce conflict between incompatible land uses such as wildlife management and agriculture: community participation in this process at all stages is seen as crucial.

Third, improvement of infrastructure, particularly roads, which present a constraint to all forms of development and conservation in the area, and hence to the implementation of the land-use plan.

Fourth, upgrading of agricultural research in the area which is distinctive in climate, soils and socio-economic situation, to allow farmers to increase productivity within the constraints presented by the environment and the land-use plan.

Fifth, improvement or initiation of extension services with respect to agriculture, forestry, fisheries, water development and wildlife management, aimed at promoting community participation in sustainable resource use within the land-use plan framework; a women's programme will ensure participation of this underprivileged sector of the community.

Seventh, creation of a socio-economic environment in which illegal and unsustainable exploitation of resources is

unacceptable, so that local communities will participate with upgraded law-enforcement agencies in protecting their resources.

7. If the project succeeds?

LIRDP provides a promising model for rural development in those remote rural areas of Zambia with important non agricultural natural resources, particularly the sparsely settled Game Management Areas adjacent to the National Parks of which Zambia has 32 and 19 respectively, and which together make up 30% of Zambia's land area. By integrating wildlife resources into the rural economy, LIRDP intends to engage them as the engine driving those economies. By emphasising community-based ownership, management and distribution of benefits of the full range of natural resources, LIRDP expects to avoid the disruptions to community land-use practices associated with high initial technological investments in wildlife management and privatisation of land and wild resources. In this way LIRDP may provide a model for the integration of sustainable wildlife utilization which is applicable to the socio-economic situation of the less developed sections of other African countries beyond Zambia.

8. What outside support is required?

LIRDP is a Zambian Government programme which is rated high priority as witnessed by the large initial GRZ contribution to its progress. In the future, GRZ will allocate sufficient manpower and infrastructure to ensure effective management of the project. However, GRZ expects that, as LIRDP begins earning revenues, demands on the national treasury will be progressively reduced until the area becomes self-supporting.

In the meantime, LIRDP represents an extensive set of programmes which will require outside support in funding and expertise for at least the 5-year period of Phase 2 from 1988 to 1992. The total requirement over Phase 2 is estimated at US \$ 25 million, of which US \$ 14 million are budgeted for the development of an all-weather road network.

Major budget headings for phase 2 include:

FIGURES IN US\$ X 1000

1.	Road Development	14,000
2.	Technical Assistance	2,500
3.	LIRDP Headquarters, construction and running ...	1,165
4.	Community Organisation & Manpower Development ..	675
5.	Agricultural Research and Extension	1,200
6.	Tsetse Control	Uncosted
7.	Women's Programme	232
8.	Co-operatives extension	22
9.	Forestry Programme	276
10.	Fisheries Programme	Uncosted
11.	Wildlife Management and Research	3,790
12.	Logistics & Mechanical Unit	570
13.	Evaluation Unit	106
TOTAL		24,536

LIRDP represents an integrated set of programmes in a range of fields. The concept of development through sustainable resource use underlies and unifies the superficial diversity and complexity of the project. LIRDP places strong emphasis on this unity and balance between the elements of the project and stresses the need for all elements to progress in step with each other. No single element, be it roads, agriculture or wildlife management must be allowed to outstrip any other since this would jeopardise the organic linkages that must be built between them.

For this reason, it is important that outside support should be coordinated to allow a balanced programme. In consequence, it may be necessary to encourage the formation of a donor consortium that can provide support in the most appropriate form for such a balanced programme.

9. Conclusion

There is no shortage of development priorities which require urgent attention; nor no development assistance agencies face a shortfall of projects which require funding. In this situation, donor agencies select projects for support in accordance with a set of criteria, prominent among which are the receiving country's own assessment of its priority needs and the policies of the donor agency.

LIRDP has been put forward by the Government of Zambia as a top priority for outside support. His Excellency the President has taken a strong personal interest in the project, and has nominated himself chairman of the Steering Committee to which the project reports. Moreover the project receives support from all levels of the Party and its Government from the central to the local level, being as it is a deliberate trial in the application of the national policies of DECENTRALISATION and DIVERSIFICATION within the framework of the NATIONAL CONSERVATION STRATEGY.

At the same time, LIRDP responds to the growing concern on the part of the donor community that development investments should yield results which are sustainable. This requires close integration of development activities with the ability of both the human and the natural resources to sustain the level of use reached during the investment phase. LIRDP is an important experiment in environmentally sensitive development and as such corresponds to the emerging priorities of the donor community.

Finally, LIRDP is not only a concept. Considerable background work has been done and the soon-to-be-completed Phase 1 of the project has undertaken all the necessary steps to ensure that a solid foundation exists for the project and that it has full backing of the concerned communities. This in itself is a valuable investment and one which should not be lost. It is hoped that the project will attract strong support from outside agencies to match the support being given by the Zambian Government.

GRID
GLOBAL RESOURCE INFORMATION DATABASE

GRID
CASE STUDY SERIES
NO. 2

NAIROBI
JUNE 1987

African Elephant Database Project

Anne Burrill and Iain Douglas-Hamilton

Funded by World-Wide Fund for Nature (WWF)
and the Elsa Wild Animal Appeal
in co-operation with

GEMS
GLOBAL ENVIRONMENT MONITORING SYSTEM
UNITED NATIONS ENVIRONMENT PROGRAMME

African Elephant Database Project

ABSTRACT

The objective of this report is to provide information on elephant numbers, distribution and trends, and factors affecting these, which will be helpful to countries in reviewing and setting quotas under the CITES Ivory Export Quota agreement.

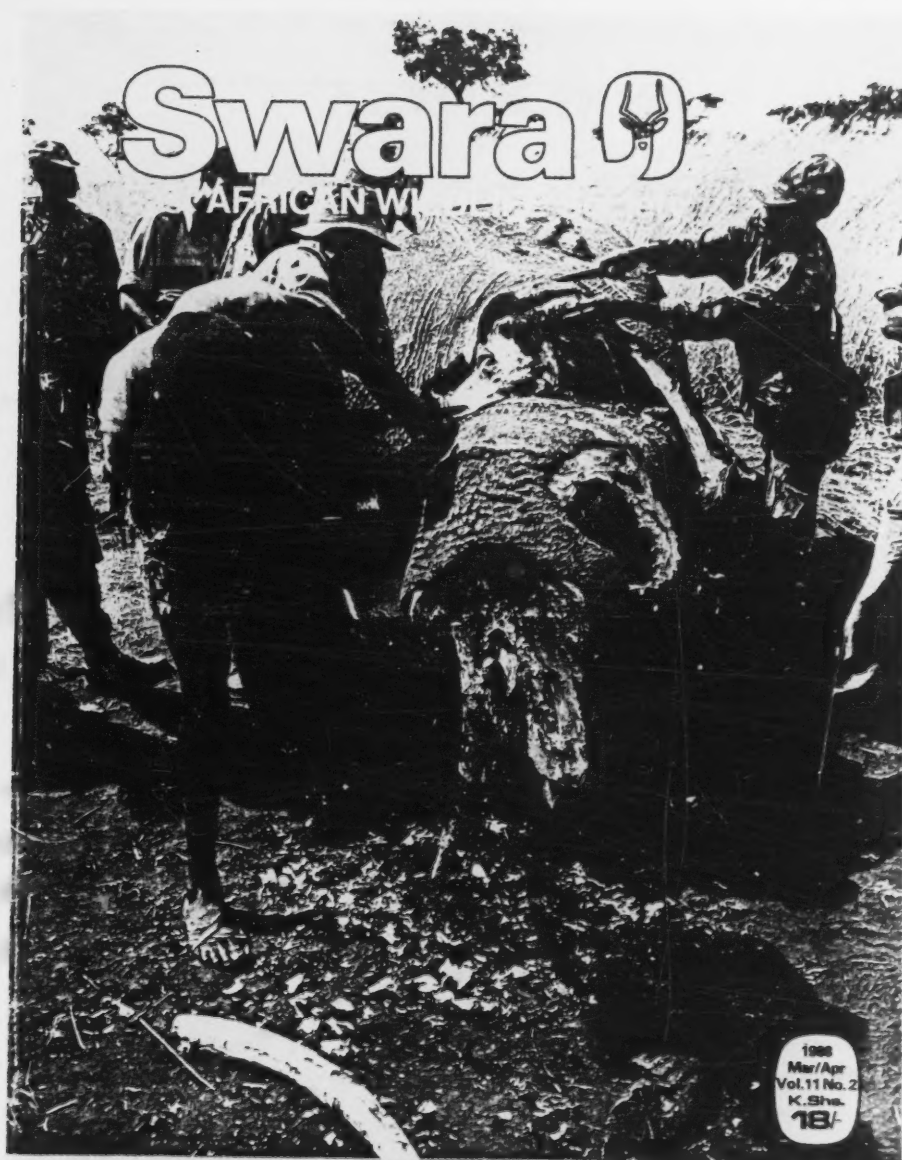
The data on elephants have been acquired from published scientific literature, reports of aerial or ground surveys, and from a series of questionnaires distributed up to December 1986. They have been exhaustively reviewed by the African Elephant and Rhino Specialist Group (AERSG) of IUCN. The total range of the elephant is estimated at 5,921,000 km² 46% in Central Africa, 25% in East Africa, 25% in Southern Africa and 5% in West Africa. Of the total range nearly 30% is rainforest and largely uncensused to this day.

On the basis of these data, and computer modelling, the factors correlated to elephant density have been determined. The most significant positive correlation was with effective protection.

Elephant numbers were then projected for each country, by computer modelling. The regional totals were West Africa 24,000 East Africa 176,000, Southern Africa 236,000. For Central Africa the only data input came from areas of abundance in Gabon and CAR. When extrapolated to other forested areas they gave a regional total of 585,000, thought to be unrealistically high.

Trends were also calculated from successive estimates. The East African weighted trends were -6.8% per annum for protected areas, and -14.2% per annum for unprotected areas, with an overall weighted annual trend of -8.1%. In Southern Africa the weighted trend for countries with little poaching was 0.7% per annum, and in the heavily poached countries -8.2% per annum. Trend data for the rest of Africa were fragmentary, but in the northern savannahs elephants were mainly decreasing in a band across the continent from Somalia to Senegal, with a weighted mean of -17.8% per annum. No quantitative data were available for trends in the forest, but informants suggest variations from stability or increase in Gabon, to rapid decrease in Eastern Zaire.

Through this project, a central database of elephant populations has been established at UNEP within the Global Environment Monitoring System (GEMS) as part of its Global Resource Information Database (GRID). As further data concerning elephants are obtained, they can also be incorporated into the database for the purposes of updating the results reported herein.



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Inside:
ELEPHANTS, RHINO MAN, TELEKI...

The great East African elephant disaster

by Iain Douglas-Hamilton

Everyone knows that for years poachers have been killing elephants for ivory. What nobody appears to be aware of, other than a few wardens and wildlife scientists, is the extent of the destruction of elephants in East Africa, and how fast the remaining elephants are disappearing.

This wave of killing elephants for ivory is the second of its kind, the first having all but wiped out elephants in much of East Africa before the turn of the century. With the advent of game laws and protected areas, elephants recovered, and until 1970 it was thought that they were safe from this form of extermination.

It has been my work to monitor the changes of elephant populations over the last 12 years for a number of conservation organisations, development agencies, and government wildlife departments. During this time I have organised or participated in many elephant counts in the three countries of East Africa.

Last year the best available elephant data were assembled in a UNEP report, sponsored by WWF and the Elsa Wild Animal appeal. Anne Burrill and I co-authored this report. The study took the data and modelled elephant population estimates for Africa, country by country, using a giant geographical information computer at the the Global Environment Monitoring System/UNEP. The object was to provide African countries with the best elephant information so that they could agree on ivory quotas, under the new CITES Ivory Export Quota Agreement. The report was presented in time for the CITES meeting in Ottawa in July 1987.

In the course of this work we looked at East African elephant trends. This region out of all Africa has been particularly famous for its elephants, and there was a great deal of data. Wilbur Otchichilo from the

Kenya Rangeland Ecological Monitoring Unit painstakingly assembled the results of the latest KREMU surveys, and we compared these with previous counts. Tanzania and Uganda also provided the necessary information, including counts which I helped co-ordinate in the Selous Game Reserve, Lake Manyara and the Uganda national parks. Many colleagues in wildlife research contributed, including members of the African Elephant and Rhino Specialist Group of IUCN.

The results are summarised in the table on page 11, which is updated only with respect to the count made in Manyara last November. It represents a comprehensive picture of changes in elephant populations in East Africa over the last 15 years for Kenya and Uganda, and over the last ten years for Tanzania.

From the table it is obvious that elephants before 15 years ago were still very numerous even outside protected areas. In fact many thousands were shot annually in the 1960s in order to protect crops, without any overall negative impact on numbers. The ivory from these 'control' operations, and licence fees from elephant sport hunting, helped to make the wildlife departments of those countries self-sufficient.

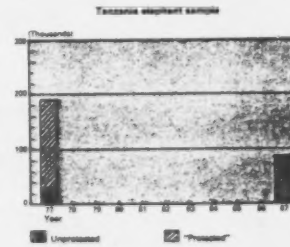
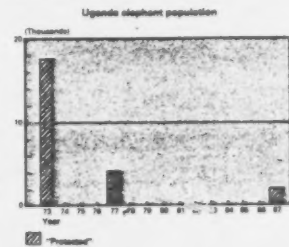
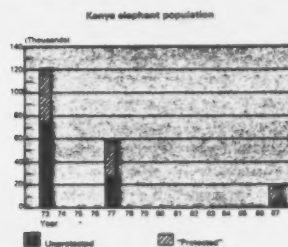
The resurgence of the ivory trade began in 1970 with a rapid increase in the price of ivory. The elephant crashes that have occurred are not unique to any particular country, and have been replicated in Uganda, Kenya and Tanzania.

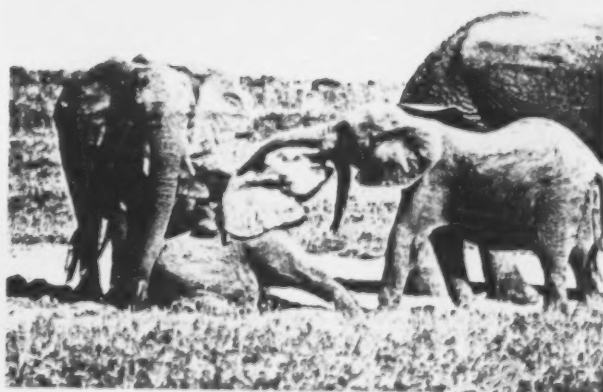
In Uganda the fall was the most dramatic in the early 1970s, when Amin's men looted the national parks for ivory, including the Murchison Falls Park south of the Nile, where elephants dropped from 9,000 to 1,700 in three years. (They have since been virtually eradicated.)

The Kenyan record was not such an abrupt fall, but in absolute terms the number of elephants lost was greater. However, the trends in Amboseli, the Mara and Laikipia provide exceptions to the general decline. In each case, these safe havens have been crowded with refugees.

The Tanzanian elephant collapse got going later and at a slower rate, although in actual numbers of elephants the loss was the greatest. For example, 55,000 elephants were lost in the Selous Game Reserve over ten years. Today there are still 55,000 left, which amounts to nearly half of East Africa's elephants.

Some of the key indicator populations had not been sampled for a while when this table was assembled. Results coming in since last July suggest that we may have seriously underestimated the rate of decline for some populations, for example Lake Manyara, which now has been recounted and only numbers 180 to 200, compared to the 430 we had assumed. Ruaha Rungwa was estimated at some 22,000, but results currently being analysed by the Serengeti Wildlife Research Institute will give a far lower figure. Finally, the elephants of Mkomazi Game Reserve, which were estimated at 2,800 in 1968 and 670 in 1977,





left and Orla Douglas Hamilton

A typical family unit of mothers and their immediate offspring in Lake Masvaya (top); a young female in Tsavo (left); playful contact between members of a family unit reinforces strong social ties (above).

left and Orla Douglas Hamilton



Freddy Hoffmann

have now declined to 90 animals, rather than the 193 we had extrapolated.

In the rest of Africa, data is more scanty, but most of it paints a picture for the elephants which is similar to or worse than East Africa. Only in parts of southern Africa are elephants still numerous, although even here the largest population, living in the north of Botswana, has probably immigrated from elsewhere, fleeing the fighting and the poaching. It is beyond the regional scope of this article to give the whole continental picture, but what data exists is summarised in the UNEP report, which will soon be available in popular form.

It is now universally recognised by responsible scientists that the current offtake of ivory is too high, not only in East Africa, but in most of the continent. As leading wildlife scientist David Western and his colleagues have shown in a com-

ian and One Douglas Hamilton

puter model, a constant offtake of ivory if excessive will cause a population crash which starts slowly and then accelerates, and this seems to be what has happened.

Even the most cautious scientists now recognise that the elephant will become an endangered species if the present offtake of ivory continues. For East Africa the data would suggest that the elephant is already

Above: A group of elephants in Tsavo West National Park.

Left: A small baby suckling its mother in Lake Manyara National Park.

an endangered species. There is no way the East Africa elephants could sustain over the next ten years the ivory offtake of the last ten without going extinct.

There is a strong case to suggest that the Western public and Far Eastern ivory buyers bear a heavy responsibility for the destruction of elephants. The CITES quota system if it can be made to work could help to aid law enforcement by identifying clearly that small proportion of legal ivory making up today's trade. The illegal trade should then be eliminated. It would help devalue ivory if people would refuse to buy, sell or wear it.

The time to stop buying ivory and to launch a 'Save the Elephant' campaign is now, not in ten years when the elephant has

gone the way of the rhino. Such a campaign should work closely with African governments and NGOs such as the East African Wild Life Society to stop the elephant killing.

There are some signs to show that the disastrous elephant situation could be reversed. For one thing in 1900, when everyone thought that the elephant was about to become extinct, game laws were enforced at the eleventh hour and the decline was halted.

In Kenya, with the appointment of Dr Peter Olindo as Director of the Wildlife Conservation and Management Department, there is an atmosphere of reform in the air. It is apparent from a February count in Tsavo (whose results are being worked up) that most of the heavy mortality occurred before the last 12 months, and that current poaching is mainly on the fringes of the park and in areas outside.

In Tanzania, following the Selous Survey in 1986, massive anti-poaching operations were launched and the government appears serious in its determination to stamp out poaching. The anti-poaching forces have acquired a new aircraft. The Tanzanian government has banned the private trade in ivory and the ivory carving industry, which acted as an uncontrollable loophole. Foreign donors have proved to be willing to give money and provide equipment to rehabilitate the national parks and reserves.

In Uganda also there is strong support from EEC and UNDP for the national parks organisation, but no recent news has come of the largest elephant population in the Murchison Falls park. Traditionally, there has been a strong commitment to wildlife and applied research in Uganda, which is currently attracting international support and which has proficient local participants.

The crux of the matter now is for East African leaders to give priority to halting elephant poaching and to eliminating the illegal ivory trade. The ivory trade is totally outlawed to private individuals in both Kenya and Tanzania, but poachers do not exist where there are no ivory buyers to receive the goods.

With a real commitment on the part of the East African governments and donor agencies, there is no doubt that the tide which has been flowing so strongly against the elephants can be halted and put into reverse. Without this commitment, we can expect the elephants to nose-dive to the low hundreds.

Dr Ian Douglas-Hamilton is a leading conservationist known for his work on elephants. He received his doctorate in 1972 for a five-year study of the ecology and behaviour of the elephants in Tanzania's Lake Manyara National Park. While campaigning to get the Lake Manyara park extended, he made a television film with Anglia and also co-authored a best-selling book, *Among the Elephants*. He is presently analysing elephant data from all over Africa in a joint project sponsored by the European Economic Community and the WWF, in the course of which he assisted in co-ordinating the recent Tsavo elephant count (see Society Highlights in this issue).

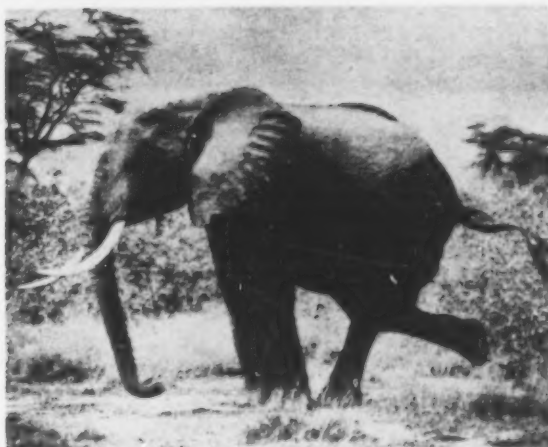
Trends in sample East African elephant populations

Kenya sample					
Districts excluding protected areas					
	1973	1977	1987	15-year change	15-year % change
Garissa	14,500	7,092	678	-13,822	-95%
Lamu	7,000	3,412	310	-6,690	-96%
Tana River	32,000	6,524	1,152	-30,848	-96%
Kilifi	10,000	806	100	-9,900	-99%
Kwale	2,000	1,420	182	-1,818	-91%
Isiolo	2,000	1,275	154	-1,846	-92%
Samburu	9,000	1,318	427	-8,573	-95%
Turkana	1,500	1,318	444	-1,056	-70%
Laikipia	1,000	3,060	2,791	1,791	179%
Narok	5,000	1,921	243	-4,757	-95%
Unprotected sub-total	84,000	28,146	6,481	-77,519	-92%
Protected areas					
Mara NR	720	710	1,100	380	53%
Amboseli NP	550	450	680	130	24%
Meru NP	1,500	2,000	427	-1,073	-72%
Samburu Buffalo Springs NR	2,500	531	632	-1,868	-75%
Marsabit NP	300	900	529	229	76%
Mt Kenya NP	2,500	3,000	2,000	-500	-20%
Mt Elgon NP	500	1,000	200	-300	-60%
Aberdare NP	3,000	3,000	2,000	-1,000	-33%
Tsavo ecosystem	35,000	19,300	5,700	-29,300	-84%
Protected areas sub-total	46,570	30,991	13,268	-33,302	-72%
Kenya total	130,570	59,037	19,749	-110,821	-85%
Tanzania sample					
Unprotected areas					
			10-year change	10-year % change	
Arusha complex	16,660	2,146	-14,514	-87%	
Tabora region	8,399	1,958	-6,441	-77%	
Kilombero	5,848	2,230	-3,618	-62%	
Unprotected sub-total	30,907	6,334	-24,573	-80%	
Protected areas					
Selous GR and Mikumi NP	109,000	55,000	-54,000	-50%	
Ruaha NP, Rungwa GR, Kizigo	43,685	21,986	-21,699	-50%	
Serengeti NP	3,008	395	-2,613	-87%	
Manyara NP	453	180	-273	-60%	
Tarangire NP	3,000	3,000	0	0%	
Mkomazi GR	667	193	-474	-71%	
Protected sub-total	159,813	80,754	-79,059	-49%	
Tanzania total	184,872	87,088	-97,784	-53%	
Uganda sample					
Protected areas					
			15-year change	15-year % change	
Kidepo NP	820	615	-430	-48%	
Queen Elizabeth NP	3,000	1,200	-2,300	-77%	
Murchison Falls NP	13,800	2,375	-725	-13,075	-95%
Protected total	17,620	4,190	-15,765	-89%	

These figures are reproduced from the *African Elephant Database Report*, UNEP 1987, and are derived from a variety of sources, many of them sample counts. These estimates include almost all of the elephants in Kenya and Uganda and about 75 per cent of those in Tanzania.

The Lake Manyara elephants

by Iain Douglas-Hamilton



The elephants of Lake Manyara formed one of the few populations I thought was safe. It is a small isolated park of incredible beauty, and well known in Africa for its high density of elephants and the ease with which they can be watched. Long-term elephant studies, initiated in 1966, made this one of the best-known elephant populations in Africa. It was the first where elephants were studied in the wild as individuals. Its small size makes it relatively easy to patrol, and for years it escaped the general East African elephant trend. This happy circumstance lulled me into a false sense of security.

For 20 years, I have flown periodic aerial surveys to count the elephants. From air and ground work, I knew that the population had gently increased from 1967 to 1985. In 1967 there were just over 300 elephants counted from the air and in subsequent surveys these increased to a maximum of 485 in 1981. 1984 and 1985 both gave slightly lower numbers, but well what might be expected from movements in

and out of the park.

In November 1987, Professor Karim Hirji of the Serengeti Wildlife Research Institute, and I made another count. This time only 181 elephants were counted, by far the lowest number ever recorded. In just two years the population had more than halved. Dead elephants were at an all time high and numbered 94, giving a carcass ratio of 34 per cent. Just over half of the dead appeared to have died within the previous 18 months. Since dead elephants are difficult to spot from the air, it is likely that for every one we saw there was another we missed.

The Manyara elephants have now become much shyer and tend to stick in thick bush. They have almost given up the habit of walking out on the open shore in the evenings in huge herds, as used to be their custom (which is a sad loss for the tourists). The older age groups are under-represented and Patti Loersche, who studied them last year, reported that she saw one wounded elephant per day on average.

During my trip around the park for the survey, I saw one elephant with spear wounds at the Musasa river, half-way down the park. I saw none of the old matriarchs that I knew before, but I did see the three young matriarchs Tuskless, Virgo and Phoebe. One of these had no tusks, another only one. Otherwise there were no large elephants, either bulls or cows, to be seen in the park. It appears that almost every elephant over the age of 30 is missing, and must be presumed killed. It is as if a whole older generation has been wiped out.

The drop of .25 per cent year over two years is much worse than the national average. In the Selous Game Reserve, for example, elephants were decreasing at a rate of .5 per cent per year.

The Manyara elephant situation shows that there is nowhere that the safety of elephants can be taken for granted. If it is considered as an indicator population, the implication is that elephants are decreasing in Tanzania and possibly elsewhere faster than has been realised.

It is possible that this sudden negative trend is related to a further rise in the price of ivory. Although I have no data on the price of ivory in Tanzania, it is known that the international price of ivory showed a sharp increase in 1987. One major batch of ivory sold in Brussels at a price of about \$150 per kilo, compared to \$100-120 the year before. The danger is that poachers will find an incentive to come after even the small and supposedly well-protected populations like that of Manyara.

The Tanzanian national parks authorities have taken action since receiving the count report, and anti-poaching operations in Manyara have been redoubled. They still lack equipment, however, especially transport for the anti-poaching operations. It is to be hoped that international donors will step into the gap and provide a rapid response in terms of transport, equipment, fuel and whatever is needed to protect this unique population.

In addition, the ban on private trade in ivory in Tanzania needs to be reinforced, especially by consumer countries, preventing illegal Tanzanian ivory from being imported and entering their markets. It would help greatly if a TRAFFIC office were to be set up in East Africa to help monitor ivory movements abroad and, through the CITES quota system, to identify which ivory is legal and which illegal. If the illegal ivory could be eliminated, the pressure on the elephants would be greatly reduced.

